

Exhibit 7

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

* * * * *
THE ESTATE OF YARON UNGAR, ET AL., Case No:

Plaintiffs 00-105L

vs.

THE PALESTINIAN AUTHORITY;
ET AL.,

Defendants

* * * * *

VIDEOTAPED RULE 30 DEPOSITION OF:
SALAM FAYYAD
EAST JERUSALEM
JULY 28, 2010

Videotaped Rule 30 deposition of SALAM FAYYAD, taken in the above-entitled cause pending in the United States District Court, District of Rhode Island, pursuant to notice, before ISABELLE KLEBANOW, RPR, CT No. 311, Stenographer, at the Ambassador Hotel, East Jerusalem, on Wednesday, the 28th day of July, 2010, at 4:15 p.m. Jerusalem time.

REPORTED BY: ISABELLE KLEBANOW, RPR, CT NO. 311

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<p>1 You can't tell him how to answer a question.</p> <p>2 MR. WISTOW: Then instruct him not to</p> <p>3 answer.</p> <p>4 MR. ROCHON: I'm not going to instruct him</p> <p>5 not to answer, but you can't instruct him how to answer.</p> <p>6 MR. WISTOW: What you're doing now is the</p> <p>7 very colloquy that's prohibited. I'm going to ask him</p> <p>8 one more time, and I ask you to please -- I moved to</p> <p>9 strike his answer, and I'm asking him --</p> <p>10 Q. -- is it your desire to see the judgment by</p> <p>11 default vacated, for whatever reason?</p> <p>12 A. Yes, for the reason I mentioned. For the reasons</p> <p>13 I mentioned.</p> <p>14 MR. WISTOW: I move to strike everything</p> <p>15 after yes.</p> <p>16 Q. Now, I'm going to read you --</p> <p>17 MR. ROCHON: Mr. Wistow, we'll have an</p> <p>18 agreement we'll deal with your motions to strike at some</p> <p>19 later time, not now? You don't want me to argue them</p> <p>20 now, do you?</p> <p>21 MR. WISTOW: To whom?</p> <p>22 MR. ROCHON: Well, that's what I mean.</p> <p>23 MR. WISTOW: I just want the Court to know</p> <p>24 that I moved to strike.</p> <p>25 A. Can I ask a question myself?</p>	<p>1 So, on page 38, and it says, "As Prime Minister</p> <p>2 Fayyad's declaration makes clear, this judgment has</p> <p>3 already been the subject of diplomatic communications at</p> <p>4 the highest levels between our country's representatives</p> <p>5 in the State Department and the governing officials in</p> <p>6 the occupied territories.</p> <p>7 If left intact, the judgment threatens to</p> <p>8 undermine the relationship between the United States and</p> <p>9 the Palestinian government, a relationship that the</p> <p>10 executive branch of the United States government has</p> <p>11 categorized as being crucial to the Israeli-Palestinian</p> <p>12 peace process."</p> <p>13 You understand what I've just read?</p> <p>14 A. I do.</p> <p>15 Q. Okay. Now, I want to talk a little bit about the</p> <p>16 contacts that are referred to there -- that is, between</p> <p>17 our country's representatives and the governing</p> <p>18 officials in the occupied territories.</p> <p>19 Have you discussed this -- by the way, the</p> <p>20 governing officials in the occupied territories, I</p> <p>21 assume are Israeli officials? Is that's what meant by</p> <p>22 that?</p> <p>23 A. I did not understand it that way.</p> <p>24 Q. Okay. How did -- tell me what you understand.</p> <p>25 A. I understood it as communications between us in</p>
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<p>1 Q. Sure.</p> <p>2 A. Is it part of my right to actually explain what</p> <p>3 it is that I'm saying?</p> <p>4 Q. I think that's best left to the Court to decide.</p> <p>5 I take the position that --</p> <p>6 MR. WISTOW: Is it okay if I answer him?</p> <p>7 MR. ROCHON: (Indicating).</p> <p>8 A. The Court is not going to be able to decide if he</p> <p>9 just sees yes to an answer without understanding the</p> <p>10 motive.</p> <p>11 Q. Why don't you assume --</p> <p>12 A. Yes.</p> <p>13 Q. -- that a Court is capable of handling a case</p> <p>14 appropriately. Could you do that, please?</p> <p>15 MR. ROCHON: Objection. Mr. Wistow, you're</p> <p>16 arguing with the witness.</p> <p>17 MR. WISTOW: No, I'm not. I'm not trying to</p> <p>18 argue. Let me just read to him something from the</p> <p>19 motion. Did you say you want to look over my shoulder</p> <p>20 or accept my representation?</p> <p>21 MR. ROCHON: I didn't say anything. Go</p> <p>22 ahead.</p> <p>23 Q. All right. This is from page 38 of the motion</p> <p>24 that was filed on December 28, 2007, by your counsel in</p> <p>25 the case.</p>	<p>1 the Palestinian Authority and the United States.</p> <p>2 Q. Okay. Fair enough.</p> <p>3 Now, would you tell me whether or not you've</p> <p>4 reviewed any documents prior to coming here to help you</p> <p>5 recollect anything about those contacts.</p> <p>6 A. I have not reviewed any documents.</p> <p>7 Q. At all?</p> <p>8 A. Not at all.</p> <p>9 Q. Nothing whatever?</p> <p>10 A. No.</p> <p>11 Q. When is the last time you've looked at any</p> <p>12 documents that relate to this case?</p> <p>13 A. Probably around the time I made the declaration</p> <p>14 in connection with the motion. Probably.</p> <p>15 Q. In 2007?</p> <p>16 A. That's probably true.</p> <p>17 Q. Do you know when the motion was made?</p> <p>18 A. It must have been the second half of the year,</p> <p>19 towards the end of the year probably.</p> <p>20 Q. Of 2007?</p> <p>21 A. 2007, yes.</p> <p>22 Q. Okay. So that's the last time you would have</p> <p>23 looked at any of these documents, is that fair?</p> <p>24 A. I'm thinking, because I just need to make sure</p> <p>25 that I'm answering you truthfully.</p>

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<p>1 Q. -- where you're not absolutely sure of my 2 meaning, please tell me -- 3 A. Yes. 4 Q. -- and I'll try to rephrase it so that you and I 5 are sure we're talking about the same thing at all 6 times. 7 Is that agreeable? 8 A. Sure. 9 Q. Okay. What I'm asking you about is any documents 10 you looked at -- at any time now -- 11 A. Yes. 12 Q. -- between the PLO, the PA, and the American 13 government with regard to the Ungar case. Any 14 documents. 15 A. Yes. The document that I recall seeing around 16 that time is a document that I myself sent to then 17 Secretary of State Condoleezza Rice, when I was Minister 18 of Finance in 2005. Yes. 19 Q. Okay. And is that the only document you recall? 20 A. I'm aware that there are other documents. 21 Q. You are aware? 22 A. I'm aware there are other documents. I do not 23 recall seeing them -- 24 Q. Okay. 25 A. -- or reading them. What I say is that this must</p>	<p>1 Q. Up to today, you haven't seen it? 2 A. No, I haven't. 3 Q. Okay. Do you understand -- how did you learn 4 about this letter? 5 A. You know, because, actually, when I rejoined the 6 government in the spring of 2007, we were in the process 7 of trying to actually find representation and all. 8 And I knew that we had to do this and give it -- 9 treat it as a matter of priority. And, in the process, 10 you know, I learned that there was communication like 11 that. 12 Q. How did you learn? What was the mechanism? 13 A. Well, let me remember now as to how it happened. 14 Q. Please. 15 A. This takes us back to early 2007, around the time 16 when I joined the government in the spring of that year. 17 I know that there was an effort made by the 18 President's staff at the time to try to find legal 19 representation for the PA in the United States. 20 Q. President Mustafa? 21 A. President Abbas. 22 Q. Oh, I'm sorry. I misheard you. Okay. So -- 23 A. The staff of the President. 24 Q. I see. I'm sorry. Okay. 25 What I'm trying to focus on right now is</p>
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<p>1 have happened sometime in 2006, when I was not in the 2 government. 3 Q. All right. I'm a little bit confused. It's not 4 your fault. It's mine. 5 A. Yes. 6 Q. When you say you know there are other 7 documents -- 8 A. Yes. 9 Q. -- first of all, what documents do you believe -- 10 A. Correspondence. 11 Q. What are they? Letters to Condoleezza Rice? Are 12 they -- 13 A. That was my understanding. There was further 14 communication between the PA and the US administration 15 in the form of letters. 16 Q. Would one of those letters be a letter from 17 President Abbas? 18 A. Probably, yes. 19 Q. Do you recollect seeing such a letter? 20 A. No. 21 Q. Do you recollect hearing that there was such a 22 letter? 23 A. Yes, I do. Yes. 24 Q. Okay. But you never saw it? 25 A. I don't believe I saw it, no.</p>	<p>1 correspondence with the American government. 2 A. Okay. 3 Q. Are you with me? 4 A. I am. 5 Q. Okay. You told me you believe there was a 6 letter -- 7 A. Yes. 8 Q. You've got to let me finish. 9 You told me that you believe there was a letter 10 from President Abbas. Yes? 11 A. I said I believe so. Now I'm trying to remember. 12 I know there was communication between the PA and the US 13 administration. 14 Q. Do you believe there was a letter from President 15 Abbas to Condoleezza Rice? 16 A. It must have been at that level, yes. 17 Q. And you believe it, correct? 18 A. I have no reason not to believe so. 19 Q. Did you ever ask anybody if you could see that 20 letter? 21 A. I mean it's not that I could not see it if I 22 wanted to. 23 Q. That's not my question. 24 MR. ROCHON: You wanted him to finish his 25 answer, I'm sure.</p>

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<p>1 And so, if I'm really pressed to give you a</p> <p>2 yes-or-no answer this afternoon here as we're doing</p> <p>3 this, I can't but tell you no, I don't remember.</p> <p>4 Q. Mr. Fayyad, let me explain something, if I might.</p> <p>5 A. Yes.</p> <p>6 Q. Well, I won't explain anything. I'll ask a</p> <p>7 question.</p> <p>8 A. Okay.</p> <p>9 Q. Do you understand that you have told the United</p> <p>10 States District Court that the PLO and the PA would</p> <p>11 participate in discovery in the case?</p> <p>12 You understand that?</p> <p>13 A. I do.</p> <p>14 Q. Okay. That means discovery under the American</p> <p>15 rules, however strange they may be.</p> <p>16 Do you understand that?</p> <p>17 A. I'm not objecting to the rules.</p> <p>18 Q. Okay.</p> <p>19 A. I'm objecting to the form in which this</p> <p>20 deposition is being conducted. These are two different</p> <p>21 matters.</p> <p>22 Q. Do you feel that I'm being rude to you?</p> <p>23 A. I didn't say that. It's just, basically, that I</p> <p>24 do not feel I'm given -- I'm being given the space to</p> <p>25 recollect what I'm being pushed to say yes or no.</p>	<p>1 I want to ask you a very straightforward -- I think --</p> <p>2 question.</p> <p>3 Were you aware of Judge Marrero's order? If you</p> <p>4 don't know, you can say you don't know. If you say you</p> <p>5 were aware of it, you can say you were. If you weren't</p> <p>6 aware of it, you can say you weren't.</p> <p>7 A. The truth, sir, is that I do not know.</p> <p>8 All I'm really trying to do here is to get you to</p> <p>9 see things from my own perspective as I communicate to</p> <p>10 you my answers to questions you raise.</p> <p>11 This has been a long process. There is constant</p> <p>12 discussion going on, and it's not really the only case.</p> <p>13 There are several cases here. So, at the time certain</p> <p>14 significant things happened along the way, I'm sure I</p> <p>15 was informed. You know what I'm saying?</p> <p>16 But here we are months, years, after certain</p> <p>17 things have happened. I cannot really be so certain. I</p> <p>18 do not really want to tell you something yes or no when</p> <p>19 I'm not really a hundred percent certain.</p> <p>20 You know what I'm saying? That's what I'm really</p> <p>21 trying to do here.</p> <p>22 Q. That's fine. That's not unusual. That happens</p> <p>23 to every witness.</p> <p>24 MR. ROCHON: May we take a break at this</p> <p>25 point, given -- is that agreeable?</p>
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<p>1 That's basically what it is.</p> <p>2 I'm familiar with this system as much as one can</p> <p>3 be. I'm not a citizen of the United States. I lived</p> <p>4 there long enough to know how it works. But I know the</p> <p>5 difference between doing it right and not doing it --</p> <p>6 and doing it not so right.</p> <p>7 That's basically what I'm saying.</p> <p>8 Q. Mr. Fayyad, are you saying that I'm asking the</p> <p>9 questions too quickly and not giving you time to answer?</p> <p>10 A. Maybe it's not really that as much as it is when</p> <p>11 you say, Yes or no, yes or no, yes or no. It's as if,</p> <p>12 you know, I just came from a cramming room where I went</p> <p>13 over -- where I've just gone over all these documents.</p> <p>14 Q. Did you?</p> <p>15 A. Fact of the matter is that I didn't. I run a</p> <p>16 government. I have a lot of things to worry about. And</p> <p>17 this is one of them. It's an important issue for me.</p> <p>18 But I am not here to suggest to you in any</p> <p>19 manner, shape or form, sir, that I can answer quickly</p> <p>20 yes or no questions related to whether or not I read</p> <p>21 certain documents three or four years ago.</p> <p>22 That's basically what I'm saying, with all due</p> <p>23 respect.</p> <p>24 Q. With all due respect to you, Mr. Fayyad, you're</p> <p>25 not the first witness that I've asked questions of. And</p>	<p>1 THE WITNESS: Yes.</p> <p>2 THE VIDEOGRAPHER: Going off record at 4:55.</p> <p>3 (Short recess taken.)</p> <p>4 THE VIDEOGRAPHER: Going on record at 5:00.</p> <p>5 Q. Mr. Fayyad --</p> <p>6 A. Yes.</p> <p>7 Q. -- do you understand, one of the things that I'm</p> <p>8 trying to find out is what you know about the case?</p> <p>9 Do you understand that?</p> <p>10 A. I understand that this is the nature of a</p> <p>11 deposition, yes.</p> <p>12 Q. But my question to you is, do you understand that</p> <p>13 one of the things I'm trying to find out is how much you</p> <p>14 know about different aspects of the case.</p> <p>15 Do you understand that?</p> <p>16 A. You're telling me that, and I take your word for</p> <p>17 it.</p> <p>18 Q. Okay. Now, what I'm trying to find out is, did</p> <p>19 you ever learn of Judge Marrero's order to the United</p> <p>20 States, to your recollection.</p> <p>21 A. I don't remember.</p> <p>22 Q. Okay. Fair enough. You have no recollection of</p> <p>23 learning of it at this point. Is that fair?</p> <p>24 A. I just don't remember really.</p> <p>25 Q. You have no recollection of learning of it, is</p>

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<p>1 You see that?</p> <p>2 A. The third line --</p> <p>3 (Witness peruses document.)</p> <p>4 A. I see that, yes.</p> <p>5 Q. Okay. So did you ever learn from any source that</p> <p>6 the United States had declined to issue a Statement of</p> <p>7 Interest in the Knox case or in any of the other cases</p> <p>8 pending in other districts against the PLO and the PA?</p> <p>9 MR. ROCHON: Objection.</p> <p>10 Q. Did you ever learn that from any source?</p> <p>11 MR. ROCHON: Objection. Don't answer yet.</p> <p>12 You have to exclude conversations --</p> <p>13 MR. WISTOW: No. I don't exclude</p> <p>14 conversations. It's not a privileged communication.</p> <p>15 It's not confidential information. It's relating --</p> <p>16 MR. ROCHON: Let me just -- I'm not arguing.</p> <p>17 MR. WISTOW: I don't want any fighting. I</p> <p>18 don't exclude anything.</p> <p>19 MR. ROCHON: We're agreeing. The answer to</p> <p>20 the question will not be deemed to be a waiver of</p> <p>21 privilege.</p> <p>22 MR. WISTOW: That's right. I believe</p> <p>23 privilege has been waived for other reasons we'll get</p> <p>24 into. But I stipulate that an answer to this will not</p> <p>25 represent a waiver.</p>	<p>1 Statement of Interest in a generic sense.</p> <p>2 And that actually is what's borne out if you read</p> <p>3 a couple of lines down from where that reference which</p> <p>4 you just cited, where the letter says, At the same time,</p> <p>5 the United States remains concerned about the potential</p> <p>6 significant impact of these cases -- significant impact</p> <p>7 these cases may have on the financial and political</p> <p>8 viability of the Defendants.</p> <p>9 Q. Have you finished your answer?</p> <p>10 A. Yes.</p> <p>11 MR. WISTOW: I move to strike.</p> <p>12 THE COURT REPORTER: Could you identify the</p> <p>13 person who came in the room.</p> <p>14 MR. WISTOW: Could you identify yourself for</p> <p>15 the record, please.</p> <p>16 MR. HALLER: Mordechai Haller.</p> <p>17 THE COURT REPORTER: Spell it for me,</p> <p>18 please.</p> <p>19 MR. HALLER: M O R D E C H A I, H A L L E R.</p> <p>20 Plaintiffs' Israeli counsel.</p> <p>21 Q. Have you finished your answer, Mr. Fayyad?</p> <p>22 A. Yes.</p> <p>23 Q. Do you remember the question?</p> <p>24 A. I remember the question.</p> <p>25 The question was that -- were you aware that</p>
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<p>1 MR. ROCHON: Mr. Prime Minister, you can</p> <p>2 answer the question.</p> <p>3 A. Well, I remember that there was a process.</p> <p>4 And, as I told you myself, I myself communicated</p> <p>5 on this with the Secretary of State at the time,</p> <p>6 Condoleezza Rice, seeking help. And I understood what</p> <p>7 the Statement of Interest meant -- Statement of Interest</p> <p>8 -- a term mentioned on several occasions in my</p> <p>9 discussions with US officials.</p> <p>10 Now -- and I understood, at some point -- whether</p> <p>11 in connection with this letter or some other</p> <p>12 communication I can't remember right now -- that the US</p> <p>13 did not submit, or did not want to submit, a Statement</p> <p>14 of Interest.</p> <p>15 But I also recall that it did not mean -- that</p> <p>16 representation done by the United States, it does not</p> <p>17 mean that the administration was --</p> <p>18 (Mr. Haller enters the room.)</p> <p>19 Q. I'm sorry. I didn't hear the end.</p> <p>20 A. That it did not mean that the administration was</p> <p>21 indifferent as to what was going on.</p> <p>22 In other words, I understood that -- the way I</p> <p>23 understood it was, in a formal sense of a Statement of</p> <p>24 Interest, there was not acceptance of it. There was not</p> <p>25 a submission of it. But, at the same time, there was a</p>	<p>1 there was -- or does this not say that the United States</p> <p>2 did not want to submit a Statement of Interest.</p> <p>3 Q. No. I'm not asking you about what the letter</p> <p>4 says.</p> <p>5 A. Oh, okay.</p> <p>6 Q. I'm not. I'm asking you if you ever became aware</p> <p>7 of whether or not the United States responded to Judge</p> <p>8 Marrero by saying -- let me finish, please --</p> <p>9 A. Yes.</p> <p>10 Q. -- by saying they declined to state -- to file a</p> <p>11 Statement of Interest at that time.</p> <p>12 Did you ever become aware of that?</p> <p>13 A. As I indicated, I'm aware that there were</p> <p>14 discussions, communications, on this matter. I was</p> <p>15 aware that there was not a straightforward Statement of</p> <p>16 Interest submitted by the US government to the Court.</p> <p>17 But I also remember being told that that</p> <p>18 statement or that communication or those communications</p> <p>19 where Statement of Interest was not filed did not mean</p> <p>20 that the administration was indifferent as to the</p> <p>21 proceedings.</p> <p>22 That's my answer.</p> <p>23 Q. Okay. I'm going to press it a little bit.</p> <p>24 A. Okay.</p> <p>25 Q. I'm really not asking you to interpret what the</p>

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<p>1 intent of the government was, the American government.</p> <p>2 I'm asking you only if you were aware that, on</p> <p>3 February 29, 2008, the United States said to Judge</p> <p>4 Marrero, and I quote, "The United States respectfully</p> <p>5 informs the Court that it declines to file a Statement</p> <p>6 of Interest concerning the Rule 60 issues presented by</p> <p>7 this case, but will continue to monitor this and other</p> <p>8 cases like it.</p> <p>9 Did you ever become aware of that declination?</p> <p>10 A. What I'm really trying to communicate to you, and</p> <p>11 through you to the Court, is my understanding of the</p> <p>12 nature of that communication; and, specifically, that</p> <p>13 the administration did not file a Statement of Interest</p> <p>14 in the way a Statement of Interest is technically</p> <p>15 defined.</p> <p>16 But I remember, in the context of communications,</p> <p>17 suggesting that it was not not interested in what was</p> <p>18 going on. That's basically my recollection of the</p> <p>19 exercise.</p> <p>20 Q. Mr. Fayyad, I'm going to ask you to try not to</p> <p>21 communicate with the Court, as you just suggested you're</p> <p>22 doing.</p> <p>23 Try to just answer my questions. The Court will</p> <p>24 hear my questions, will hear your answers. Under our</p> <p>25 system, I get to ask questions and, hopefully, you</p>	<p>1 A. I learned that. But, at the same time, I learned</p> <p>2 that the United States was not disinterested, and that</p> <p>3 that view of the United States was communicated as well.</p> <p>4 Q. Okay. The United States also expressed sympathy</p> <p>5 for the victims, did it not?</p> <p>6 A. It did.</p> <p>7 Q. And it expressed sympathy and interest in the PLO</p> <p>8 and PA, did it not?</p> <p>9 A. It did.</p> <p>10 Q. So it wasn't indifferent to either side, was it?</p> <p>11 A. No. But that's not what the letter said. It's</p> <p>12 not indifferent to either side.</p> <p>13 Q. That's right.</p> <p>14 A. Yes.</p> <p>15 Q. But the letter says they declined to file a</p> <p>16 Statement of Interest.</p> <p>17 A. That's what the letter said.</p> <p>18 Q. Right. Did you ever learn of that decision?</p> <p>19 A. Whether in this specific case or another case, I</p> <p>20 really cannot tell you right now.</p> <p>21 But I'm aware of the fact that the United States</p> <p>22 did not file a Statement of Interest in the way a</p> <p>23 Statement of Interest is construed to mean in a legal</p> <p>24 sense.</p> <p>25 Q. How did you learn that?</p>
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<p>1 answer them.</p> <p>2 I'm not trying to tell half the story. You have</p> <p>3 lawyers. They can bring out what they want.</p> <p>4 Do you understand?</p> <p>5 A. I respect the system, and I am doing my best to</p> <p>6 answer your questions, sir.</p> <p>7 Q. Okay. My question is, did you ever learn that</p> <p>8 Judge Marrero was informed that the United States</p> <p>9 declined to file a Statement of Interest.</p> <p>10 MR. ROCHON: Objection.</p> <p>11 Q. Can you answer that either yes, no, or I don't</p> <p>12 remember?</p> <p>13 MR. ROCHON: Objection.</p> <p>14 Q. Can you?</p> <p>15 MR. ROCHON: You can answer the question.</p> <p>16 A. As I said, you know, I'm aware that there was</p> <p>17 activity along those lines, but I do not remember each</p> <p>18 and specific case or specific communication.</p> <p>19 But the substance of what I recall is what I told</p> <p>20 you.</p> <p>21 Q. Okay. Did you learn, in substance --</p> <p>22 A. Yes.</p> <p>23 Q. -- that the United States declined to file a</p> <p>24 Statement of Interest? Did you learn that?</p> <p>25 MR. ROCHON: Objection. You may answer.</p>	<p>1 MR. ROCHON: Objection.</p> <p>2 A. I've had discussions on this with US officials</p> <p>3 all the time.</p> <p>4 Q. Really?</p> <p>5 A. Yes.</p> <p>6 Q. When was the last time you had a discussion with</p> <p>7 a US official about this?</p> <p>8 A. Not the recent period.</p> <p>9 Q. Well, you said all the time. I'm just asking you</p> <p>10 when the last time was.</p> <p>11 A. I'm trying to remember now. All the time when</p> <p>12 this was being activated and all.</p> <p>13 Q. Take your time, Mr. Fayyad. There's no rush.</p> <p>14 A. I can actually give you a precise date if I can</p> <p>15 remember when it is that I visited the State Department</p> <p>16 and met with lawyers at the State Department.</p> <p>17 I'd have to go back to my itinerary, my travel</p> <p>18 records, and I'd be able to provide you with that.</p> <p>19 Q. Please understand --</p> <p>20 A. In other words, it's not -- I know that I did</p> <p>21 discuss it.</p> <p>22 Q. Okay. Please understand. I don't expect you to</p> <p>23 have exact dates.</p> <p>24 A. Okay.</p> <p>25 Q. Can you give me an approximate date?</p>

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<p>1 A. Yes. That I can.</p> <p>2 Q. What is that?</p> <p>3 A. Let me -- not necessarily in connection with this</p> <p>4 case, but generally, you know, cases filed against us in</p> <p>5 the United States.</p> <p>6 So I believe it must have been a year ago.</p> <p>7 That's when I believe I officially visited the United</p> <p>8 States. A year ago.</p> <p>9 Again, I can look it up and provide with you the</p> <p>10 records.</p> <p>11 Q. I'm only asking you for your best recollection.</p> <p>12 A. Yes.</p> <p>13 Q. And I understand all you can give me, without</p> <p>14 checking your records, is your best recollection.</p> <p>15 A. My best recollection is that the last time I had</p> <p>16 a discussion on cases -- on litigation against us in the</p> <p>17 United States in connection with these matters --</p> <p>18 general matters. Not necessarily this case -- was a</p> <p>19 year ago --</p> <p>20 Q. Okay.</p> <p>21 A. -- or thereabouts.</p> <p>22 Q. Okay. When we say litigation generally and not</p> <p>23 necessarily these cases --</p> <p>24 A. Yes.</p> <p>25 Q. -- we're talking about the so-called terrorist</p>	<p>1 A. Precisely, I do not remember. In connection with</p> <p>2 this particular trip, I don't really remember now.</p> <p>3 Q. Okay. Would it be fair to say you were asking</p> <p>4 them to see if a Statement of Interest could be filed?</p> <p>5 MR. ROCHON: Objection. Form and content.</p> <p>6 In have a substantive objection on this.</p> <p>7 You may want to take it outside the presence</p> <p>8 of the witness so you don't think I'm engaging in</p> <p>9 speaking objections. But I need to discuss it with you</p> <p>10 first before I take it to the judge.</p> <p>11 MR. WISTOW: Some kind of diplomatic</p> <p>12 privilege?</p> <p>13 MR. ROCHON: Yes.</p> <p>14 MR. WISTOW: I have a -- it says, This</p> <p>15 judgment has already been the subject of diplomatic</p> <p>16 communications at the highest levels between our</p> <p>17 country's representatives and the State Department.</p> <p>18 You've told the Court about this, both the</p> <p>19 Circuit Court and the Federal Court. And, you know,</p> <p>20 you're flaunting this issue. Now you tell me that I</p> <p>21 can't ask him about it? Okay. Just tell him not to</p> <p>22 answer. It's okay with me.</p> <p>23 MR. ROCHON: Well, we can take it to the</p> <p>24 Magistrate Judge. That's why we have him available, so</p> <p>25 you can get a ruling on it.</p>
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<p>1 claims, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Claims against the PLO and PA that they were</p> <p>4 involved somehow in terrorist activities?</p> <p>5 A. Yes.</p> <p>6 Q. So you spoke to somebody at the State Department</p> <p>7 about a year ago?</p> <p>8 A. Yes.</p> <p>9 Q. Who was that?</p> <p>10 A. I don't -- lawyers.</p> <p>11 Q. Can you help me out a little bit?</p> <p>12 A. I can't remember the names right now.</p> <p>13 Q. Okay. Do you remember their titles?</p> <p>14 A. I can't.</p> <p>15 Q. Do you remember how many there were?</p> <p>16 A. Maybe three, four. I really don't remember.</p> <p>17 Q. So did you make -- were you accompanied by</p> <p>18 anybody on your side?</p> <p>19 A. I really was there by myself.</p> <p>20 Q. Okay. And so these three or four lawyers, you</p> <p>21 don't remember anybody's name?</p> <p>22 A. No. Not right now.</p> <p>23 Q. And do you remember if you were -- you had</p> <p>24 written to set up an appointment, or how it came to be?</p> <p>25 Do you remember?</p>	<p>1 THE VIDEOGRAPHER: Excuse me. I have to</p> <p>2 change the tape.</p> <p>3 MR. WISTOW: Well, you know what?</p> <p>4 MR. ROCHON: We're going to go off the</p> <p>5 record.</p> <p>6 MR. WISTOW: You know what? I'm perfectly</p> <p>7 happy with an instruction not to answer. I don't want</p> <p>8 to wait -- I have limited time today. I want to get</p> <p>9 this thing moving.</p> <p>10 MR. ROCHON: We have to go off the tape.</p> <p>11 You can finish, but your tape's running out and you</p> <p>12 won't be on the record.</p> <p>13 THE VIDEOGRAPHER: Going off the record at</p> <p>14 5:18.</p> <p>15 (Short recess taken.)</p> <p>16 THE VIDEOGRAPHER: Going on record at 5:20.</p> <p>17 MR. WISTOW: I'd ask you to reconsider.</p> <p>18 You have affirmatively told the Court in</p> <p>19 your pleadings that one of the reasons to vacate the</p> <p>20 motion -- 60(b)(6) motion -- is that -- and I quote from</p> <p>21 your pleadings -- "This judgment has already been the</p> <p>22 subject of diplomatic communications at the highest</p> <p>23 levels between our country's representatives and the</p> <p>24 State Department and the governing officials in the</p> <p>25 Occupied Territories.</p>

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<p>1 (Exhibit No. 3 marked for identification.)</p> <p>2 Q. Have you ever seen that letter, August 15, 2005,</p> <p>3 from Ramsey Clark to Victor Marrero?</p> <p>4 MR. ROCHON: Just for the record, that's</p> <p>5 referring to Exhibit No. 3?</p> <p>6 MR. WISTOW: Yes.</p> <p>7 Q. Have you ever seen that before?</p> <p>8 A. I don't recall seeing this letter, no.</p> <p>9 Q. Okay. Have you read through it? It's quite</p> <p>10 short. Why don't you take a minute and read through it</p> <p>11 to yourself.</p> <p>12 (Witness peruses document.)</p> <p>13 A. Yes. I've just read it.</p> <p>14 Q. You've read it?</p> <p>15 A. Yes.</p> <p>16 Q. All right. Basically, you understand this is a</p> <p>17 letter from counsel for the PLO and PA in the Knox case?</p> <p>18 Do you see where it says Knox versus PLO?</p> <p>19 A. Yes. I see that. Yes.</p> <p>20 Q. And you know Judge Marrero was the judge in the</p> <p>21 Knox case, yes?</p> <p>22 A. I don't remember the name, but I assume.</p> <p>23 Q. Let's assume for the moment that Judge Marrero</p> <p>24 was the judge in the Knox case.</p> <p>25 A. Yes.</p>	<p>1 A. I mean, since it came to my attention, to my</p> <p>2 knowledge that, as a matter of fact, that there was</p> <p>3 legal action pending against us in the United States.</p> <p>4 Q. Right. What I mean by my question --</p> <p>5 A. Yes.</p> <p>6 Q. -- is when you say well before 2005, do you mean</p> <p>7 two years? Ten years? Thirty years?</p> <p>8 A. No. No. It cannot be that.</p> <p>9 Q. What do you mean?</p> <p>10 A. It can't be that. As far as I remember now,</p> <p>11 these cases started in 2000, 2001, something like that.</p> <p>12 I don't remember now a precise date but -- so it cannot</p> <p>13 be a decade before, you know what I'm saying?</p> <p>14 Q. Of course.</p> <p>15 A. I'm aware of the fact that this was the position</p> <p>16 communicated at the time, yes. But not as recently as</p> <p>17 August 2005.</p> <p>18 Q. You knew it before?</p> <p>19 A. That it was generally the position taken, yes.</p> <p>20 Q. Okay. What I'm trying to find out is</p> <p>21 approximately how long before. We know that you became</p> <p>22 the Finance Minister in what year?</p> <p>23 A. 2002.</p> <p>24 Q. So presumably it was not before 2002 that you</p> <p>25 were aware of it, or maybe it was?</p>
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<p>1 Q. This letter is basically telling the judge that</p> <p>2 the PLO and the PA have instructed him to only present</p> <p>3 their position that the US courts have no jurisdiction</p> <p>4 over them and they would not answer the case.</p> <p>5 Do you understand that?</p> <p>6 A. I understand that.</p> <p>7 Q. Okay. Even though you don't recall whether you</p> <p>8 ever saw this letter or not -- let me strike that one.</p> <p>9 At the time this letter was written, you were the</p> <p>10 Finance Minister?</p> <p>11 A. I was.</p> <p>12 Q. Okay. At that time, or subsequent, at any time</p> <p>13 have you learned that Ramsey Clark told Judge Marrero</p> <p>14 that he was instructed by the PLO and the PA not to</p> <p>15 answer the case in front of Judge Knox (sic)?</p> <p>16 Did you ever learn that?</p> <p>17 A. I am aware of that having been taken as a</p> <p>18 position, but not in 2005. I don't remember this at</p> <p>19 all.</p> <p>20 Q. Okay. When did you first learn that that was the</p> <p>21 position that was taken? Approximately.</p> <p>22 A. Well before 2005. Not 2005.</p> <p>23 Q. Well before?</p> <p>24 A. Yes. Yes.</p> <p>25 Q. Well before. What does well before mean?</p>	<p>1 A. Oh, no. It cannot have been before 2002. Cannot</p> <p>2 be.</p> <p>3 Q. Was it relatively soon after you became Finance</p> <p>4 Minister?</p> <p>5 A. That time period. But 2005 is too soon.</p> <p>6 Q. You mean too late?</p> <p>7 A. Too late I mean, in that sense. So it must have</p> <p>8 happened before. I'm not aware of this particular</p> <p>9 communication, this particular letter.</p> <p>10 Q. I understand.</p> <p>11 A. But I understand that was the position.</p> <p>12 Q. That was the position in all the terrorist cases,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. All right. And you became Finance Minister</p> <p>16 around 2002?</p> <p>17 A. Correct.</p> <p>18 Q. And would it be closer to 2002 that you learned</p> <p>19 of this rather than 2005?</p> <p>20 A. Probably. And I want to expand on this, if I</p> <p>21 may.</p> <p>22 Q. Sure.</p> <p>23 A. Just to give you a little bit of -- you know, the</p> <p>24 world as was happening then as I saw it, and the kind of</p> <p>25 challenges that we really faced at the time, and maybe</p>

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<p>1 this will help you better understand where I'm coming</p> <p>2 from as I try to answer your questions as best as I can.</p> <p>3 Q. I think I understand where you're coming from.</p> <p>4 A. When I first became Finance Minister, I was</p> <p>5 immediately preoccupied with similar cases filed against</p> <p>6 us in Israel, Israeli courts.</p> <p>7 And I learned, shortly after I became Minister of</p> <p>8 Finance, that the defense taken or the position taken</p> <p>9 vis-à-vis those cases was similar to what is contained</p> <p>10 in this letter -- meaning that there was no</p> <p>11 jurisdiction, etc., on jurisdictional grounds.</p> <p>12 And I was, you know, at the time, preoccupied</p> <p>13 with trying to deal with that particular situation.</p> <p>14 Q. Okay.</p> <p>15 A. So it must have been, you know, a bit later after</p> <p>16 that I became aware of legal action against us in the</p> <p>17 United States.</p> <p>18 And that position taken, as reflected in this</p> <p>19 letter, is consistent with what I know was happening in</p> <p>20 Israeli courts when I became Minister of Finance.</p> <p>21 Q. So sometime in 2003 anyway?</p> <p>22 A. Maybe. Maybe something like that.</p> <p>23 Q. That's your best recollection?</p> <p>24 A. That would not be an unreasonable guess, sir.</p> <p>25 I'm trying to do the best I can.</p>	<p>1 Q. And by the time you heard of the Ungar case -- by</p> <p>2 the way, 2003-2004, you were Finance Minister?</p> <p>3 A. Yes, I was.</p> <p>4 Q. Okay. And by the time you heard of the Ungar</p> <p>5 case, you were aware that the position that Mr. Clark</p> <p>6 was conveying to Judge Marrero was the position also in</p> <p>7 the Ungar case.</p> <p>8 It was in all of the cases, right?</p> <p>9 A. Yes. As I said to you, I was aware that that was</p> <p>10 the position generally taken in those cases, yes.</p> <p>11 Q. Okay. You knew that when you first became aware</p> <p>12 of Ungar?</p> <p>13 A. I was -- yes. I was -- when I first became aware</p> <p>14 of Ungar as a case pending against us, I -- that was my</p> <p>15 understanding, that that was the position taken.</p> <p>16 Q. That there was no jurisdiction over the PLO or</p> <p>17 the PA?</p> <p>18 A. Yes.</p> <p>19 Q. And the case would not be answered?</p> <p>20 A. That basically the position was that there was a</p> <p>21 case of sovereign immunity.</p> <p>22 Q. Okay. And were you aware that there was also a</p> <p>23 position taken that the case involved a so-called</p> <p>24 "political question"?</p> <p>25 Or, if you're unfamiliar with that concept, tell</p>
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<p>1 Q. That's all I'm asking, and I appreciate you doing</p> <p>2 that.</p> <p>3 A. Yes.</p> <p>4 Q. So your best recollection would be around 2003?</p> <p>5 MR. ROCHON: Objection. Objection.</p> <p>6 Q. Is that fair?</p> <p>7 A. As I said, you know, I really cannot be precise</p> <p>8 with dates on this. I mean it's a process.</p> <p>9 And that's why I did expand to tell you that this</p> <p>10 was the line taken and the position. And I assume that</p> <p>11 it was really the position taken in US courts and in</p> <p>12 this case.</p> <p>13 Q. Right.</p> <p>14 A. But I -- I mean it's really a continuum. I</p> <p>15 cannot really, you know, tell you precise dates when I</p> <p>16 became aware of it.</p> <p>17 But I certainly do not remember this letter.</p> <p>18 Q. Okay. That's fine.</p> <p>19 Now, I'm going to -- you first heard of the Ungar</p> <p>20 case around 2003, 2004? Is that fair?</p> <p>21 A. Probably.</p> <p>22 Q. Okay. And when you first heard of the Ungar</p> <p>23 case, you knew that that was what we've been calling a</p> <p>24 terrorist case?</p> <p>25 A. Yes.</p>	<p>1 me.</p> <p>2 A. No. I'm not.</p> <p>3 Q. Okay. And were you aware that the PLO and PA was</p> <p>4 also taking the position that, not only was there</p> <p>5 sovereign immunity, but they were not subject to suit in</p> <p>6 the United States?</p> <p>7 Were you aware of that?</p> <p>8 A. I didn't understand the distinction.</p> <p>9 Q. Okay. So all you recollect at this point is the</p> <p>10 sovereign immunity issue?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. You're not saying these other issues</p> <p>13 didn't come up. You just don't recall?</p> <p>14 A. I don't remember really.</p> <p>15 Q. Okay. Now, you know that, in March of this year,</p> <p>16 the First Circuit Court of Appeals sent the case back to</p> <p>17 Judge Lagueux for further consideration.</p> <p>18 You're aware of that, aren't you?</p> <p>19 A. I'm aware, yes.</p> <p>20 Q. And you understand that that's really why we're</p> <p>21 here today?</p> <p>22 A. I think I said this at the outset, yes.</p> <p>23 Q. Now, have you ever read the decision of the First</p> <p>24 Circuit Court of Appeals?</p> <p>25 A. I don't recall reading the decision per se, but I</p>

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<p>1 understand what's going on.</p> <p>2 Q. Okay. I want to ask you if --</p> <p>3 MR. WISTOW: -- and, again, I'm not going to</p> <p>4 mark it because it's a published opinion from the First</p> <p>5 Circuit. And if you want to look over my shoulder --</p> <p>6 MR. ROCHON: Actually, if you're going to</p> <p>7 read it to him, you might just want him to be able to</p> <p>8 see what you're reading because you're going to be</p> <p>9 asking him questions.</p> <p>10 MR. WISTOW: Okay. Do you mind if I come</p> <p>11 next to him?</p> <p>12 MR. ROCHON: Well, you could read it and</p> <p>13 give it to him, is what I'd prefer.</p> <p>14 MR. WISTOW: Well, I'd like to -- yes. I'll</p> <p>15 read it and I'll give it to him.</p> <p>16 MR. ROCHON: That would be great.</p> <p>17 MR. WISTOW: So I don't have to --</p> <p>18 THE WITNESS: I don't mind if you want to</p> <p>19 sit next to me.</p> <p>20 MR. WISTOW: If he doesn't mind, with your</p> <p>21 permission, I'll just point to it.</p> <p>22 THE WITNESS: Go ahead.</p> <p>23 MR. ROCHON: Fine. You see, the problem is</p> <p>24 it will mess up your record with the videographer. So,</p> <p>25 actually, it might be better if --</p>	<p>1 A. I was not, you know, that involved, because this</p> <p>2 was really more of a continuation of something that</p> <p>3 started to happen before I joined the PA. And before I</p> <p>4 joined the PA, I was not even aware of the legal action</p> <p>5 against the PA in the US court.</p> <p>6 So I don't know who was telling whom what at the</p> <p>7 time, and who in any particular case was representing</p> <p>8 the PA and PLO. I have Ramsey Clark here in this</p> <p>9 particular case, and I'm aware that actually, at</p> <p>10 different points, he did represent the PA/ PLO.</p> <p>11 So this is consistent with what I generally know</p> <p>12 about the case now.</p> <p>13 I mean I don't know to whom the statement is</p> <p>14 attributed here.</p> <p>15 Q. That's what I'm trying to find out.</p> <p>16 A. Yes. The statement that you read, you know, my</p> <p>17 understanding is that it really was basically a good</p> <p>18 faith understanding of, you know, how, you know, this</p> <p>19 case could be dealt with, that it was not stonewalling</p> <p>20 or anything like that.</p> <p>21 I mean as best as I know.</p> <p>22 Q. So you don't consider it was stonewalling?</p> <p>23 A. No.</p> <p>24 Q. You think it was the right thing to do?</p> <p>25 A. At the time, that was the judgment. Basically,</p>
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<p>1 Q. See the bracketed areas?</p> <p>2 A. Yes.</p> <p>3 Q. Why don't you read that, and you tell me when</p> <p>4 you're finished.</p> <p>5 (Witness peruses document.)</p> <p>6 A. I read it.</p> <p>7 Q. Okay. May I?</p> <p>8 A. (Indicating).</p> <p>9 Q. I'm going to read it into the record, the part</p> <p>10 that I put the brackets around. This appears on page 4.</p> <p>11 As the Defendants now concede -- you know who the</p> <p>12 Defendants are, right?</p> <p>13 A. We are the Defendants.</p> <p>14 Q. The PLO and the PA?</p> <p>15 A. Yes.</p> <p>16 Q. As the Defendants now concede, the decision to</p> <p>17 stonewall in this fashion was a deliberate strategem</p> <p>18 driven by the advice of their then counsel and their</p> <p>19 unwillingness to recognize the authority of the federal</p> <p>20 courts.</p> <p>21 You read that?</p> <p>22 A. I read that.</p> <p>23 Q. Okay. Now, who is the counsel that's referred to</p> <p>24 as giving you advice? When I say you, PLO, PA. Who is</p> <p>25 that?</p>	<p>1 it was a good faith understanding of options available</p> <p>2 under US law, or law generally -- a basic question of</p> <p>3 jurisdiction.</p> <p>4 And, in fact, I'm familiar with the argument</p> <p>5 because, as I said, I first became involved in</p> <p>6 litigation against us in Israeli courts, and that was</p> <p>7 the position taken then.</p> <p>8 So the position you're referring to here, in</p> <p>9 terms of claiming sovereign immunity, was not something</p> <p>10 that I heard about for the first time, because that was</p> <p>11 the position taken by lawyers representing the</p> <p>12 Palestinian Authority in the Israeli courts at the time.</p> <p>13 It's consistent with that general proposition,</p> <p>14 and that position was not, in the way that it's stated</p> <p>15 here, taken as an instrument or a way to stonewall or</p> <p>16 something like that.</p> <p>17 Q. Okay.</p> <p>18 A. It was -- basically, I don't agree with the</p> <p>19 characterization.</p> <p>20 Q. Okay. I guess that's what I'm trying to find out</p> <p>21 is, I'm just saying what the First Circuit said.</p> <p>22 A. Yes.</p> <p>23 Q. And you don't agree with it. That's what you</p> <p>24 just said?</p> <p>25 A. Yes. I mean I --</p>

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<p>1 Q. Okay. That's fine.</p> <p>2 A. I don't agree that that's what was going on. I</p> <p>3 mean it's a remedy, logically speaking, when you're sued</p> <p>4 that a question that is asked is does the court have</p> <p>5 jurisdiction over the matter. And I suppose the first</p> <p>6 question was asked.</p> <p>7 I don't know. I'm not a lawyer myself. But I,</p> <p>8 you know, find it, therefore, logical to, you know, take</p> <p>9 that position when, in fact, there was no jurisdiction.</p> <p>10 Q. Have you finished your answer?</p> <p>11 A. I have.</p> <p>12 Q. Good. All right.</p> <p>13 Is it fair to say that it's the position of the</p> <p>14 PLO and the PA that the murders -- the murder -- of</p> <p>15 Yaron Ungar was caused by Hamas? Is that fair?</p> <p>16 A. Can you say that again, please.</p> <p>17 Q. All right. Is it the position of the PLO and the</p> <p>18 PA that Yaron Ungar was murdered by Hamas?</p> <p>19 A. You know, as best as I know, this says what the</p> <p>20 record now says. I mean that's been proven that this is</p> <p>21 what happened.</p> <p>22 Q. So that's the position of the PLO and the PA in</p> <p>23 this case. Is that fair?</p> <p>24 A. It's not the position. It's a question of fact.</p> <p>25 It's not a question of opinion.</p>	<p>1 that.</p> <p>2 Do you understand the difference between a</p> <p>3 default and a default judgment?</p> <p>4 A. You tell me.</p> <p>5 Q. Okay. Is the answer you don't?</p> <p>6 A. I don't know exactly.</p> <p>7 Q. Okay. Fair enough.</p> <p>8 A default is where the Court, in effect, says the</p> <p>9 Defendant is liable because they haven't answered the</p> <p>10 case or have done something else that the Court feels is</p> <p>11 inappropriate.</p> <p>12 A default judgment is where the Court takes it a</p> <p>13 step further and puts an amount of money on it. Okay?</p> <p>14 A. Okay.</p> <p>15 Q. Are you aware today that that was a two-step</p> <p>16 process with the PLO and the PA?</p> <p>17 A. I'm aware that there is a judgment in a certain</p> <p>18 amount, so that's a default judgment. Yes, I'm aware of</p> <p>19 that.</p> <p>20 Q. Are you aware that, at one time, there was merely</p> <p>21 a default? If you were, you were. If you weren't, you</p> <p>22 weren't.</p> <p>23 A. I'm not sure I really was, or I knew what the</p> <p>24 distinction was, or when, right now, when that happened</p> <p>25 precisely.</p>
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<p>1 Q. I'm asking, is that what you're contending.</p> <p>2 A. I'm not contending anything on the substance of</p> <p>3 the case, sir.</p> <p>4 All I'm telling you here is that, you know, the</p> <p>5 facts, as I know them, the records say or suggest</p> <p>6 strongly, and basically the evidence and what is known</p> <p>7 about the case, is that, you know, Hamas was involved in</p> <p>8 this.</p> <p>9 That's -- it's not a position.</p> <p>10 Q. Are you aware that representations were made to</p> <p>11 the United States District Court by the PLO and the PA</p> <p>12 as follows -- and this is on the motion to vacate the</p> <p>13 default.</p> <p>14 I'm reading from the Palestinian Authority's and</p> <p>15 the Palestinian Liberation Organization's reply to</p> <p>16 Plaintiff's objection to motion for relief and default</p> <p>17 judgment. And I'll just read you what it says.</p> <p>18 There is no dispute that Hamas operatives carried</p> <p>19 out the attack that forms the basis for this lawsuit.</p> <p>20 Do you believe that?</p> <p>21 A. Yes. I believe that.</p> <p>22 Q. Okay. That's all I'm asking.</p> <p>23 A. Okay.</p> <p>24 Q. Now, have you learned from any source up to today</p> <p>25 that, after a default was entered -- let me withdraw</p>	<p>1 But I mean, to me, as soon as I learned of it, it</p> <p>2 was in the form of a certain amount for which the Court</p> <p>3 found us liable.</p> <p>4 Q. Okay.</p> <p>5 A. That's --</p> <p>6 Q. All right. Did you ever become aware from any</p> <p>7 source up to today that, after the PLO and the PA were</p> <p>8 defaulted, but before the amount of money was decided</p> <p>9 upon, the Court asked the PLO and the PA if they wanted</p> <p>10 to participate in the hearing on damages?</p> <p>11 A. Between the time there was default and --</p> <p>12 Q. No, no. Have you ever learned that -- up to</p> <p>13 today, have you ever learned that, in between the</p> <p>14 default and the default judgment, the PLO and PA were</p> <p>15 invited to participate in the hearing as to how much</p> <p>16 money it would be put on the judgment?</p> <p>17 Have you ever learned that?</p> <p>18 A. I don't remember really. I don't remember.</p> <p>19 Q. Okay. To the best of --</p> <p>20 A. To the best of my knowledge, I don't remember,</p> <p>21 no.</p> <p>22 Q. Okay. Now, your lawyers on your behalf, in their</p> <p>23 motion to vacate --</p> <p>24 A. Yes.</p> <p>25 Q. -- the default, which was filed in December of</p>

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<p>1 2007 -- which was about three and a half years after the</p> <p>2 default, does that sound right?</p> <p>3 You know the default was in June or July of 2004?</p> <p>4 A. Well, okay.</p> <p>5 Q. Sounds about right?</p> <p>6 A. Sounds about right, yes, because, as I told</p> <p>7 you --</p> <p>8 Q. It's a matter of record. We don't need to spend</p> <p>9 time.</p> <p>10 A. It's a matter of record. But, again, just to</p> <p>11 underscore what I just said before, and that is, you</p> <p>12 know, I personally became seized with this as a case</p> <p>13 involving payment, it appears, after it became a default</p> <p>14 judgment.</p> <p>15 And that must have happened in 2005. So 2000 --</p> <p>16 there's a different -- 2004 -- probably.</p> <p>17 Q. You found out about this in 2005?</p> <p>18 A. When apparently it became a default judgment.</p> <p>19 Q. Well, it became a default judgment in the middle</p> <p>20 of 2004.</p> <p>21 A. I don't remember.</p> <p>22 Q. What?</p> <p>23 A. I don't remember.</p> <p>24 Q. You don't remember what?</p> <p>25 A. I don't remember really. I mean I thought it was</p>	<p>1 By the end of 2006, however, "It became clear the</p> <p>2 Palestinian government urgently needed an institutional</p> <p>3 framework for responding comprehensively to the</p> <p>4 litigation in the United States.</p> <p>5 As Mr. Abdul Rahman notes, The failure to</p> <p>6 establish such lines of authority had created</p> <p>7 conflicting instructions and confusion in the litigation</p> <p>8 to the Defendants' detriment.</p> <p>9 Okay. Do you understand the reference?</p> <p>10 A. I understand.</p> <p>11 Q. Do you have any knowledge whatever -- any -- as</p> <p>12 to these so-called conflicting instructions?</p> <p>13 A. I don't know precisely, you know, what it really</p> <p>14 refers to other than, if I understood what you have read</p> <p>15 correctly, in terms of evolution in the position taken</p> <p>16 by the Palestinian Authority in terms of how to pursue</p> <p>17 this matter and how to defend ourselves, if that's</p> <p>18 what's being referred to in what you read here, then I</p> <p>19 believe, you know, consistent with what I know happened</p> <p>20 around that time, 2005-2006, there was a discussion.</p> <p>21 And I, you know, certainly cannot rule it out</p> <p>22 that, during that period, you know, there were different</p> <p>23 views expressed on this in terms of how to do this as a</p> <p>24 matter of evolution in the direction which we ended up</p> <p>25 taking eventually by wanting to defend ourselves</p>
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<p>1 2005, but you're telling me 2004. Okay.</p> <p>2 Q. I'm representing that to you. And if I gave you</p> <p>3 the wrong date, your lawyer would be all over me.</p> <p>4 MR. ROCHON: I've offered you stipulations</p> <p>5 when you want them.</p> <p>6 MR. WISTOW: I'm trying to find out what he</p> <p>7 knows about this.</p> <p>8 A. All right.</p> <p>9 Q. Now, in the motion filed by your lawyers, they</p> <p>10 told Judge Lagueux -- and I quote -- "The failure to</p> <p>11 establish such lines of authority had created</p> <p>12 conflicting instructions and confusion in the litigation</p> <p>13 to the Defendants' detriment."</p> <p>14 I'm going to ask you to accept, for the moment,</p> <p>15 that that's in the motion and it's on page 35.</p> <p>16 What were the conflicting instructions?</p> <p>17 MR. ROCHON: I'm going to object just --</p> <p>18 Q. If you know.</p> <p>19 MR. ROCHON: No, no. Because you referenced</p> <p>20 the term lines of authority and that has not been</p> <p>21 discussed before. So if you'd give the witness a little</p> <p>22 more before you ask him the question, that's all I'm</p> <p>23 asking.</p> <p>24 MR. WISTOW: Okay.</p> <p>25 Q. I'll read the beginning of the paragraph.</p>	<p>1 actively in those cases.</p> <p>2 Q. Mr. Fayyad, in English, I think conflicting</p> <p>3 instructions means one person gives instructions to</p> <p>4 somebody. Another person gives conflicting instructions</p> <p>5 to somebody.</p> <p>6 Do you have that same understanding?</p> <p>7 A. Yes. That's what conflicting instructions means.</p> <p>8 I mean --</p> <p>9 Q. Okay. What I'm trying to find out -- I'm not</p> <p>10 asking you to rule out --</p> <p>11 A. Yes.</p> <p>12 Q. -- that that happened. I'm not asking you to</p> <p>13 rule it in. I'm just asking if you have any knowledge</p> <p>14 of such conflicting instructions.</p> <p>15 That's all I'm asking.</p> <p>16 A. That's what I'm really trying to say to you here,</p> <p>17 again, trying to project, you know, the mindset, what</p> <p>18 was going on then is what I just described, in all</p> <p>19 candor.</p> <p>20 Q. What were the conflicting instructions? Some</p> <p>21 people told -- who were the instructions to, by the way?</p> <p>22 A. I mean I understand this to be those involved.</p> <p>23 Probably lawyers to lawyers. I do not know.</p> <p>24 Q. You really don't know what the conflicting</p> <p>25 instructions are, do you?</p>

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<p>1 A. I honestly do not know.</p> <p>2 Q. All right.</p> <p>3 A. If I may finish --</p> <p>4 Q. Sure.</p> <p>5 A. -- all I am really trying to suggest to you here</p> <p>6 is this does not sound like way out of line with what I</p> <p>7 knew was happening around that time in the process of</p> <p>8 evolution which took us to where we are today.</p> <p>9 Q. I'm not asking you whether it sounds way out of</p> <p>10 line. I'm asking for your knowledge about it.</p> <p>11 And if you have no knowledge about it, all you</p> <p>12 have to say is say I don't know.</p> <p>13 MR. ROCHON: I'm going to object only in</p> <p>14 terms of, counsel, the time frame.</p> <p>15 MR. WISTOW: 2006.</p> <p>16 MR. ROCHON: Thank you. You may answer,</p> <p>17 Mr. Prime Minister.</p> <p>18 THE WITNESS: Pardon?</p> <p>19 MR. ROCHON: I said it's okay to answer. I</p> <p>20 just asked for the time frame about what Mr. Wistow was</p> <p>21 asking.</p> <p>22 THE WITNESS: Okay.</p> <p>23 Q. Sir, do you have any knowledge about what the</p> <p>24 specifics are as to the conflicting instructions?</p> <p>25 A. No. Specifics, no.</p>	<p>1 And all I'm asking is, let me get out of</p> <p>2 here today. Let me try to finish this.</p> <p>3 Q. Mr. Fayyad, do you know what the conflicting</p> <p>4 instructions that are referred to are? Do you?</p> <p>5 A. I'm trying to understand. I'm trying to</p> <p>6 understand. That's why I'm answering you the way I am.</p> <p>7 It's not I'm really not wishing to answer. I just don't</p> <p>8 want to be misunderstood. That's all.</p> <p>9 Q. You do not what?</p> <p>10 A. I do not wish to be misunderstood.</p> <p>11 Q. Do you know what the conflicting instructions</p> <p>12 are?</p> <p>13 A. That's really why I answered you the way I did,</p> <p>14 in terms of trying to relate this statement here to what</p> <p>15 I knew was happening around that time.</p> <p>16 Q. Do you know of any conflicting instructions, yes</p> <p>17 or no, or you don't know?</p> <p>18 A. How can I really answer it? You know, how --</p> <p>19 Q. I guess I'm at a loss to understand the problem.</p> <p>20 A. You know, I'm trying to tell you -- and I'm eager</p> <p>21 to really get through this as soon as we possibly can.</p> <p>22 But the one thing I do not want to happen is for</p> <p>23 me to be quoted as having said something that does not</p> <p>24 reflect what I knew about the situation or I did not</p> <p>25 know about it.</p>
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<p>1 Q. What?</p> <p>2 A. The specifics of what the conflicting</p> <p>3 instructions were --</p> <p>4 Q. Yes.</p> <p>5 A. -- well, I can tell you my own understanding what</p> <p>6 this refers to. I can tell you what my own</p> <p>7 understanding was.</p> <p>8 Q. I'm only interested, if I may, sir, to save</p> <p>9 time -- because what's going to happen is -- I'm going</p> <p>10 to say this in fairness, and it's up to the Court to</p> <p>11 decide -- I had originally anticipated that the material</p> <p>12 that I've covered so far would take no more than about</p> <p>13 twenty minutes.</p> <p>14 And we're taking an enormous amount of time</p> <p>15 because, with all due respect -- and I have to leave it</p> <p>16 to the Court -- I'm not getting responsive answers.</p> <p>17 I'm asking you, please -- and I'm going to ask</p> <p>18 that you be brought back --</p> <p>19 MR. WISTOW: -- and I'm going to be ask that</p> <p>20 he be brought to the United States, because I don't feel</p> <p>21 like coming out here again.</p> <p>22 Now -- and I don't think that's an</p> <p>23 unreasonable request. You're -- there's a default</p> <p>24 judgment. You've expressed total cooperation with our</p> <p>25 discovery here.</p>	<p>1 Q. I'm asking about what you know today.</p> <p>2 A. When you say --</p> <p>3 Q. I'm asking about what you know today as you sit</p> <p>4 here.</p> <p>5 A. Sir --</p> <p>6 Q. Do you know of any conflicting instructions as</p> <p>7 referred to in the papers submitted to Judge Lagueux?</p> <p>8 That's all I'm asking.</p> <p>9 If you don't, you don't. If you do, please tell</p> <p>10 me what they are.</p> <p>11 A. With all due respect, when you say conflicting</p> <p>12 instructions, if I do not know what those conflicting</p> <p>13 instructions were about, given the statement you just</p> <p>14 read to me, I do not know what the context is.</p> <p>15 Q. I don't either. That's why I'm asking the</p> <p>16 questions.</p> <p>17 MR. ROCHON: Mr. Wistow, you've interrupted</p> <p>18 the witness.</p> <p>19 MR. WISTOW: You're quite right. You're</p> <p>20 absolutely right. I apologize.</p> <p>21 A. Do you understand what I'm saying?</p> <p>22 Q. I do.</p> <p>23 A. I'm being asked to answer either yes or no in</p> <p>24 relation to a statement, a three-line sentence, that you</p> <p>25 just read --</p>

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<p>1 Q. Right.</p> <p>2 A. -- are you aware of conflicting instructions as</p> <p>3 to this matter. What conflicting instructions? You</p> <p>4 just read to me something out of an over-all context. I</p> <p>5 do not know what that is. And I do not know --</p> <p>6 Q. That's fine. That's fine.</p> <p>7 A. I do not know what conflicting instructions are.</p> <p>8 If you tell me what they are, I can answer you.</p> <p>9 Q. I can't. If I knew what they were --</p> <p>10 A. That's why I cannot say yes or no. That's all.</p> <p>11 Q. If I knew what the conflicting instructions were,</p> <p>12 I would suggest them to you. All I know is what your</p> <p>13 counsel told Judge Lagueux, and I'm trying to find out</p> <p>14 is there substance to the statement or is there not.</p> <p>15 A. I believe --</p> <p>16 Q. That's what I'm trying to do.</p> <p>17 A. If I may add something.</p> <p>18 That is exactly why I was saying to you</p> <p>19 something, sir, about the environment, what was going on</p> <p>20 around that time in connection with those cases.</p> <p>21 There was a process of evolution going on in</p> <p>22 terms of how best to proceed. There were people who</p> <p>23 were saying the best thing to do is just basically to</p> <p>24 really stick to the same line of defense that we had</p> <p>25 before; and there were others who were saying, no, those</p>	<p>1 A. I understand.</p> <p>2 Q. Okay. Now, Mr. Abdul Rahman, do you know who he</p> <p>3 is?</p> <p>4 A. Can you give me his full name.</p> <p>5 Q. Yes. Is that because there are two Abdul</p> <p>6 Rahmans?</p> <p>7 A. It's a common name.</p> <p>8 Q. I see. Okay.</p> <p>9 MR. ROCHON: There maybe 200,000.</p> <p>10 MR. WISTOW: Well, there are two involved in</p> <p>11 this case that I know of. Bear with me.</p> <p>12 (Counsel peruses documents.)</p> <p>13 MR. ROCHON: We can make a proffer if you</p> <p>14 want, counsel.</p> <p>15 MR. WISTOW: Yes. That would save me a</p> <p>16 little time.</p> <p>17 MR. ROCHON: Ahmed Abdul Rahman.</p> <p>18 MR. WISTOW: Okay.</p> <p>19 Q. Do you know who he is?</p> <p>20 A. I know who Ahmed Abdul Rahman is.</p> <p>21 Q. Who is he?</p> <p>22 A. He is part of the leadership. I do not know if</p> <p>23 he right now has a position. At the time he made the</p> <p>24 statement he made, he was in the leadership, but I do</p> <p>25 not know what specific position he held.</p>
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<p>1 should be actively pursued.</p> <p>2 Q. Good.</p> <p>3 A. To the extent that's what this refers to, I guess</p> <p>4 that would be a first statement.</p> <p>5 Q. Okay. That would be good, and we're making</p> <p>6 progress. Thank you.</p> <p>7 So who was saying stand on the position and who</p> <p>8 was saying no, answer the case?</p> <p>9 A. I do not know the answer to this question. I was</p> <p>10 outside of the government at the time.</p> <p>11 Q. But you believe some people were saying answer it</p> <p>12 and some people were saying no?</p> <p>13 A. You know --</p> <p>14 Q. Is that true?</p> <p>15 A. Yes. That's consistent with what I said, yes.</p> <p>16 Q. Okay. But you don't know who these people are?</p> <p>17 A. I honestly don't.</p> <p>18 Q. Okay. Fair enough.</p> <p>19 A. Yes.</p> <p>20 Q. One of things that I want to say, and I say this</p> <p>21 in sincerity --</p> <p>22 A. Yes.</p> <p>23 Q. -- if you don't know the answer to something, I</p> <p>24 won't press you. I'll accept that answer.</p> <p>25 Do you understand?</p>	<p>1 Q. I'm a little bit confused. You say he's part of</p> <p>2 the leadership, or you don't know?</p> <p>3 A. I know that he was in the sense --</p> <p>4 Q. I'm talking about today.</p> <p>5 A. Today? No.</p> <p>6 Q. He's not part of --</p> <p>7 A. Right now, today, he doesn't have -- I haven't</p> <p>8 seen him participate in any leadership meetings</p> <p>9 recently.</p> <p>10 Q. Okay. So, when he was in the leadership, what</p> <p>11 was his job?</p> <p>12 A. I believe -- I believe he was Secretary General</p> <p>13 of the Cabinet. I believe. I believe. That's --</p> <p>14 Q. What was your function at the time?</p> <p>15 MR. ROCHON: Counsel, just the time frame</p> <p>16 again. At the time.</p> <p>17 Q. At the time that he was -- that Ahmed Abdul</p> <p>18 Rahman -- whatever his name is -- was in this position,</p> <p>19 what was your position at that time?</p> <p>20 A. I mean he was -- I think he was there a long</p> <p>21 time. I mean probably since the inception of the</p> <p>22 Palestinian Authority. I can't really give you an</p> <p>23 answer right now.</p> <p>24 Q. Were you there --</p> <p>25 A. No. I joined the PA in mid-2002 only.</p>

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<p>1 Q. So he was gone?</p> <p>2 A. No. I don't know if he was there. You know, I</p> <p>3 used to see him at leadership meetings, you know, when I</p> <p>4 was a member of Cabinet.</p> <p>5 Q. Okay. So he would show up at leadership meetings</p> <p>6 when you were the Finance Minister?</p> <p>7 A. Yes.</p> <p>8 Q. Well, what was his job?</p> <p>9 A. You know, the reason -- if you just give me a</p> <p>10 little bit of time --</p> <p>11 Q. Sure.</p> <p>12 A. -- to try to give you the best answer I can.</p> <p>13 Q. Take your time.</p> <p>14 A. The reason I'm having a hard time now remembering</p> <p>15 is, over the period June, let's say 2002, to early</p> <p>16 spring 2003, subsequent to that, the position of Prime</p> <p>17 Minister was introduced and different personnel were</p> <p>18 introduced at the time.</p> <p>19 So if I have an overlap with Mr. Abdul Rahman in</p> <p>20 an official capacity in matters related to Cabinet, it</p> <p>21 must have been over that brief period between June-July</p> <p>22 2002 and early 2003.</p> <p>23 Q. What was his job?</p> <p>24 A. Probably -- I am trying to translate now --</p> <p>25 Secretary General.</p>	<p>1 government, that is considered to be the President's</p> <p>2 government. So he executes the duties of his office as</p> <p>3 CEO of the whole PA through a government which I head.</p> <p>4 In a nutshell, this is what it is.</p> <p>5 Q. What can he do that you can't?</p> <p>6 A. He can appoint a Prime Minister. He can fire</p> <p>7 one.</p> <p>8 Q. Other than that? Other than that?</p> <p>9 A. That's why I said it cannot be answered in a</p> <p>10 nutshell.</p> <p>11 Q. Are there things that he can do -- I'm not trying</p> <p>12 to give you a difficult time.</p> <p>13 A. I just gave you two examples.</p> <p>14 Q. Are there things that he can do, other than</p> <p>15 appoint you or fire you, that you can't do? Other than</p> <p>16 that.</p> <p>17 A. Well, under the Constitution -- our Basic Law is</p> <p>18 a Constitution -- he's also Commander in Chief of</p> <p>19 Security Services.</p> <p>20 Q. I see.</p> <p>21 A. But that, too, is delegated.</p> <p>22 Q. To you?</p> <p>23 A. Yes. To the government, in certain areas as a</p> <p>24 matter of law written in the Basic Law.</p> <p>25 And areas which -- and other areas of security,</p>
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<p>1 Q. Of?</p> <p>2 A. The Cabinet.</p> <p>3 Q. Okay. Now --</p> <p>4 A. Or President. I really don't know. Because the</p> <p>5 Presidency and the Cabinet -- you understand, we did not</p> <p>6 have a Prime Minister position at the time.</p> <p>7 Q. Okay. By the way, what is the difference today</p> <p>8 between the duties of the President Abbas and you, sir?</p> <p>9 Are you below him?</p> <p>10 A. Yes.</p> <p>11 Q. He's your boss?</p> <p>12 A. For sure. Yes.</p> <p>13 Q. Okay. All right. What are you authorized to do</p> <p>14 and what is he authorized to do in kind of a nutshell,</p> <p>15 so we can understand?</p> <p>16 A. I don't know if this can be answered in a</p> <p>17 nutshell.</p> <p>18 Q. Do the best you can. We don't need it in</p> <p>19 excruciating detail. Just so we have some general</p> <p>20 understanding.</p> <p>21 A. Well, you know, to -- related to something that</p> <p>22 is better known around the world, I mean he's like the</p> <p>23 chief executive of the Palestinian Authority. And he</p> <p>24 got --</p> <p>25 Under our Basic Law, a Prime Minister, who runs a</p>	<p>1 he actually has delegated that to the government as</p> <p>2 well.</p> <p>3 Q. Okay. So, again, I'm not trying to give you a</p> <p>4 hard time on this. I'm just trying to understand --</p> <p>5 A. Fine. Sure.</p> <p>6 Q. -- because there are letters to and from</p> <p>7 President Abbas and letters to and from you. And you</p> <p>8 understand how, in the United States, we may not be as</p> <p>9 familiar with this situation --</p> <p>10 A. I understand.</p> <p>11 Q. -- as you are. So I'm trying to -- is it --</p> <p>12 Are you telling me that he's basically delegated</p> <p>13 all his powers to you, but he can exercise a veto and</p> <p>14 tell you not to do something or instruct you to do</p> <p>15 something?</p> <p>16 A. I mean it's a bit more complicated than that.</p> <p>17 Q. Okay. Help me out.</p> <p>18 A. But possibly, if we talk about 2006 --</p> <p>19 Q. Let's talk about today.</p> <p>20 A. Well --</p> <p>21 MR. ROCHON: Objection.</p> <p>22 Q. We can work backwards, if it's --</p> <p>23 MR. ROCHON: Objection. Relevance.</p> <p>24 A. Yes. You know, the reason I choose to talk about</p> <p>25 2006, it may help, as a matter of fact, better --</p>

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<p>1 Q. Okay. Whatever you think would be --</p> <p>2 A. Yes. Probably. I mean it's not that I'm, you</p> <p>3 know, answering a different question.</p> <p>4 If this were to happen today, you know, letters</p> <p>5 like this would be written by me.</p> <p>6 Q. Letters like what?</p> <p>7 A. Anything related to -- I mean any involvement by</p> <p>8 the President, if you really are talking about these</p> <p>9 cases, would be done by the Prime Minister.</p> <p>10 The President was involved, if he was involved in</p> <p>11 2006, is because, at the time, we had a government</p> <p>12 headed by Hamas, as a matter of fact. And Hamas was not</p> <p>13 in a position to communicate with internationals on</p> <p>14 anything.</p> <p>15 Q. Is that because they were terrorists?</p> <p>16 A. Technically, it was really they have not</p> <p>17 fulfilled the requirements under the Road Map stipulated</p> <p>18 at the time by the Quartet.</p> <p>19 Q. Were they declared to be terrorists by the United</p> <p>20 States?</p> <p>21 A. They were declared to be terrorists by the United</p> <p>22 States. But, officially, the position taken, if I</p> <p>23 remember well, by the United States -- as other players</p> <p>24 on the international scene who took that position of</p> <p>25 boycotting the government at the time -- it was because</p>	<p>1 to accept the Quartet conditions is what's getting in</p> <p>2 the way of the US communicating with Hamas.</p> <p>3 That's the position as I understand it.</p> <p>4 Q. You know there was a time, for sure, that they</p> <p>5 were designated as terrorists by the United States?</p> <p>6 A. Yes, yes.</p> <p>7 Q. Did that ever change, to your knowledge?</p> <p>8 A. No.</p> <p>9 Q. What?</p> <p>10 A. To my knowledge, no, it didn't.</p> <p>11 Q. To the best of your knowledge, they're still</p> <p>12 designated as a terrorist organization?</p> <p>13 A. Yes, to the best of my knowledge.</p> <p>14 Q. Okay. Now, Afif Safieh, do you know who that is?</p> <p>15 A. Former Ambassador or representative at the UN of</p> <p>16 the PLO to the United States.</p> <p>17 Q. Okay. I'm going to show you a letter he wrote to</p> <p>18 Condoleezza Rice which was filed with the Federal</p> <p>19 Court -- I can't make out the date. You'll see why I</p> <p>20 can't make it out in a second.</p> <p>21 Could you make that out?</p> <p>22 MR. ROCHON: Would you like that marked</p> <p>23 as -- what is that? Exhibit 5.</p> <p>24 THE WITNESS: I don't have it.</p> <p>25 MR. WISTOW: I'm going to give it to you in</p>
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<p>1 of noncompliance with requirements stipulated by the</p> <p>2 Quartet.</p> <p>3 Q. Was there a list of terrorist organizations put</p> <p>4 out by the United States executive?</p> <p>5 A. I'm aware there is something like that.</p> <p>6 Q. Was not Hamas on that list?</p> <p>7 A. I believe it.</p> <p>8 Q. Okay. Still is, is that so?</p> <p>9 A. I don't know that for sure. You're telling me.</p> <p>10 I mean if you know it to be the case.</p> <p>11 Q. You're the Prime Minister. You don't know if</p> <p>12 Hamas is currently designated as a terrorist</p> <p>13 organization by the United States?</p> <p>14 Is that your testimony?</p> <p>15 A. I am the Prime Minister of the Palestinian</p> <p>16 Authority, and I'm not here to profess that I know</p> <p>17 everything --</p> <p>18 Q. That's fine.</p> <p>19 MR. ROCHON: Let the witness finish his</p> <p>20 answer, please.</p> <p>21 A. So I can't tell you. I mean I know that they</p> <p>22 were. No reason to believe they're not anymore. It's</p> <p>23 not something that I follow up on every day.</p> <p>24 As a practical matter, I know the position taken</p> <p>25 by the United States on Hamas is that failure by Hamas</p>	<p>1 a moment.</p> <p>2 MR. ROCHON: I'm sorry, Mr. Prime Minister.</p> <p>3 THE COURT REPORTER: I think this is going</p> <p>4 to be 4.</p> <p>5 (Exhibit No. 4 marked for identification.)</p> <p>6 THE VIDEOGRAPHER: Going off record at 6:11.</p> <p>7 (Short recess taken.)</p> <p>8 THE VIDEOGRAPHER: Going on the record at</p> <p>9 6:21.</p> <p>10 Q. Have you had an opportunity, Mr. Fayyad, to read</p> <p>11 the letter to Condoleezza Rice dated April 27, 2006,</p> <p>12 from Afif Safieh?</p> <p>13 MR. WISTOW: What exhibit was that?</p> <p>14 THE COURT REPORTER: 4.</p> <p>15 MR. WISTOW: Exhibit 4.</p> <p>16 A. I just saw it now. I mean I --</p> <p>17 Q. No. I know. But have you had an opportunity to</p> <p>18 read it?</p> <p>19 A. No. I just saw that.</p> <p>20 Q. I'm talking about this moment. I just gave it to</p> <p>21 you. Have you finished reading it?</p> <p>22 A. No.</p> <p>23 MR. ROCHON: We didn't have it with us in</p> <p>24 the break. We left everything here.</p> <p>25 MR. WISTOW: Okay. Fair enough.</p>

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<p>1 Q. Take your time. 2 (Witness peruses document.) 3 A. Okay. 4 Q. All right. Now, this letter refers, in part, to 5 the Ungar case, does it not? 6 A. I didn't see -- oh, there's a reference to that 7 there. Yes. Okay. 8 Q. I don't blame you for being confused a little bit 9 perhaps. It says it's \$216 million? 10 A. I saw that. 11 Q. But it was only \$116 million, a more modest 12 amount. In any event, that is a reference, as you 13 understand it, to the Ungar case. 14 Then it goes on apparently -- first of all, did 15 you ever see this letter before? 16 A. No. 17 Q. Were you aware of its contents generally? 18 A. I don't know. 19 Q. Okay. Were you aware that an attempt was made to 20 sell the PLO Mission in New York? 21 A. No. 22 Q. This is the first you've heard of that, is 23 reading this letter? 24 A. Yes. I wasn't aware of it. 25 Q. Okay. So, according to this letter, if</p>	<p>1 It's not something that I do every day. 2 It's not that it's not important. It is. But 3 because it is so important, we have hired ourselves 4 legal counsel to represent us in those cases. 5 Q. Right. But does the PA have a file on the Ungar 6 case? 7 Whether it's important, whether it's unimportant, 8 whether you have lawyers, does it have a file? 9 A. If you're really talking about matters pertaining 10 to this litigation being present somewhere, the answer 11 is yes. 12 Q. Okay. Are you telling me it's mixed up with the 13 other terrorist cases, or don't you know? 14 A. I mean I know that they're present, I mean 15 matters pertaining to litigation against us in these 16 cases. 17 Q. Do you understand what I mean -- forgive me. I 18 didn't mean to interrupt. Finish your answer. I'm 19 sorry. 20 A. I finished. 21 Q. Okay. Do you understand what I mean by a 22 discrete file, a file that only deals with, say the 23 Ungar case, and another file that deals with the Knox 24 case, and another file that deals with the Bitan case? 25 Do you understand what I mean by that?</p>
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<p>1 Mr. Safieh is accurate, there was an attempt made to 2 sell the UN Mission in a proceeding in New York State to 3 pay the judgment. 4 And, in that case, the United States did put a 5 Statement of Interest in to prevent the sale of the 6 Mission. 7 Is that how you read the letter? 8 A. That's what's in the letter there, but I was not 9 aware. 10 Q. This is the first you've ever heard of that? 11 A. Yes. As a matter of fact, this is 2006, 12 April 22, 2006. I was not in the government at that 13 time. 14 Q. I'm not faulting you. 15 A. No, no. 16 Q. I'm just asking did you ever become aware of 17 that. 18 Now, this -- for example, when you came here to 19 testify today, is there something called an Ungar file 20 that your government maintains? 21 A. Not an Ungar file per se. I mean we have, you 22 know, legal action against us in the United States in 23 connection with the Ungar case, but others as well. 24 And we have, you know, we have actually lawyers 25 who do this on our behalf. That's why we have them.</p>	<p>1 A. Yes. I understand what you mean by that -- 2 Q. Does the PA -- 3 A. -- I mean -- 4 Q. Does the PA have such files, separate files for 5 each of these cases? 6 A. There definitely are on file. I do not know 7 they've got, for sure, if I've got Ungar file, such and 8 such file, such and such file. 9 I know there is a file that pertains to this case 10 and other cases as well. 11 Q. Okay. So what you're saying to me is you don't 12 know if there is a separate file for Ungar, or whether 13 it's incorporated into a bigger file with a lot of other 14 terrorist cases. 15 Is that fair? 16 A. If I may explain -- 17 Q. Is that a fair statement? 18 A. I'm trying to really answer your question. I'm 19 really trying to answer your question. 20 And given my job and what I have to do, if there 21 is something I need to do as to what's going on, then, 22 you know, contact is made with our counsel to ask a 23 question. 24 Now, I am sure, if I really tried hard enough and 25 spent the time needed, I myself would be able to do it.</p>

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<p>1 this in private.</p> <p>2 THE WITNESS: Yes, because I just need to</p> <p>3 take this phone.</p> <p>4 THE VIDEOGRAPHER: Going off the record at</p> <p>5 6:37.</p> <p>6 (Exhibit No. 5 marked for identification.)</p> <p>7 (Short recess taken.)</p> <p>8 THE VIDEOGRAPHER: Going on the record at</p> <p>9 6:38.</p> <p>10 MR. ROCHON: Just for the record, so it was</p> <p>11 about a one-minute break.</p> <p>12 MR. WISTOW: Okay.</p> <p>13 MR. ROCHON: Thank you.</p> <p>14 Q. I take it you're familiar with the document that</p> <p>15 I just handed you, Exhibit 5?</p> <p>16 A. Yes.</p> <p>17 Q. And do you know what that is?</p> <p>18 (Witness peruses document.)</p> <p>19 A. Yes. It's a declaration that I made.</p> <p>20 Q. Right. Do you remember signing it?</p> <p>21 A. Just give me a second while I just --</p> <p>22 (Witness peruses document.)</p> <p>23 A. Yes. That's my signature on it.</p> <p>24 Q. No, no. I'm not asking if it's your signature.</p> <p>25 I hope it is. I'm asking if you remember signing it.</p>	<p>1 and he's being told not to answer, correct?</p> <p>2 MR. ROCHON: But only because, counsel, I</p> <p>3 know the answer, and it would implicate privilege</p> <p>4 because it could not be yes or no. And you don't --</p> <p>5 MR. WISTOW: Sure, it could be. It could be</p> <p>6 an assistant prepared it. It doesn't --</p> <p>7 First of all, there's no privilege even if</p> <p>8 it was you. And second of all, saying he didn't prepare</p> <p>9 it doesn't mean necessarily a lawyer did.</p> <p>10 But I don't want to fight. I don't want to</p> <p>11 waste time. I'll live with the instruction at this</p> <p>12 point.</p> <p>13 Q. All right. Did you understand the declaration</p> <p>14 when you signed it?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. I'm going to ask you some questions about</p> <p>17 it. I'm going to go to page 2.</p> <p>18 And you'll see, on the second line, it begins. On</p> <p>19 June 18, 2005, I accordingly sent a letter to Secretary</p> <p>20 of State Rice requesting her assistance in these cases</p> <p>21 "consistent with the Constitution and laws of the United</p> <p>22 States."</p> <p>23 I emphasized in my letter that the attempt by</p> <p>24 Plaintiffs' counsel to interfere with the actions of the</p> <p>25 Palestinian government around the world was "not</p>
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<p>1 A. Yes. I remember the document. Yes.</p> <p>2 Q. Okay. I take it you didn't prepare the document?</p> <p>3 A. Pardon?</p> <p>4 Q. Did you prepare the document?</p> <p>5 MR. ROCHON: Objection. We're going to get</p> <p>6 into privileged areas.</p> <p>7 MR. WISTOW: How can it be privileged. All</p> <p>8 I'm asking him is -- I'm looking at all the information.</p> <p>9 I'm just asking who prepared it.</p> <p>10 Q. I assume your lawyer prepared it?</p> <p>11 MR. ROCHON: Objection. Don't answer the</p> <p>12 question.</p> <p>13 MR. WISTOW: Okay.</p> <p>14 Q. Did you prepare this declaration?</p> <p>15 A. Isn't that the same question you asked before?</p> <p>16 Q. I don't think so.</p> <p>17 MR. ROCHON: Counsel, the declaration speaks</p> <p>18 for itself. The preparation of it --</p> <p>19 MR. WISTOW: Whatever you say. Just</p> <p>20 instruct him not to answer. I don't care.</p> <p>21 MR. ROCHON: Because it intrudes on matters</p> <p>22 of privilege, and only for that reason, I'm instructing</p> <p>23 the witness not to answer.</p> <p>24 MR. WISTOW: Okay. So I just want to be</p> <p>25 clear. The question is did you prepare the declaration,</p>	<p>1 supported by United States law and also ran counter to</p> <p>2 international law and the laws of several foreign states</p> <p>3 in which the PNA operates."</p> <p>4 Have I read that correctly?</p> <p>5 A. Yes, you have.</p> <p>6 Q. Okay. Now, what laws were you referring -- what</p> <p>7 was the basis for your statement that the attempts by</p> <p>8 Plaintiffs' counsel to interfere with the actions of the</p> <p>9 Palestinian government was not supported by United</p> <p>10 States law?</p> <p>11 What knowledge did you have at the time?</p> <p>12 MR. ROCHON: Mr. Prime Minister -- I didn't</p> <p>13 want to interrupt your question -- I would object and</p> <p>14 tell you that it's the same privilege, attorney-client</p> <p>15 privilege -- not with my law firm, but with counsel to</p> <p>16 the Pension Fund -- upon whose behalf the letter was</p> <p>17 being written.</p> <p>18 MR. WISTOW: I just want it to be clear on</p> <p>19 the record what we're talking about.</p> <p>20 There's a letter, June 18, 2005, where he</p> <p>21 says that the Plaintiffs' efforts to interfere was "not</p> <p>22 supported by United States law."</p> <p>23 MR. ROCHON: Yes.</p> <p>24 MR. WISTOW: I'm just asking what knowledge</p> <p>25 he had with regard to that statement.</p>

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<p>1 MR. ROCHON: Okay.</p> <p>2 MR. WISTOW: If you want -- I just want to</p> <p>3 make that clear.</p> <p>4 MR. ROCHON: I understand.</p> <p>5 MR. WISTOW: If he's got any basis to</p> <p>6 support the statement whatever.</p> <p>7 MR. ROCHON: Because the answer would be</p> <p>8 premised on advice of counsel, I'm going to instruct the</p> <p>9 witness not to answer.</p> <p>10 MR. WISTOW: He could say I don't know.</p> <p>11 MR. ROCHON: He could say many things.</p> <p>12 Because the answer is based --</p> <p>13 MR. WISTOW: Okay. I accept the</p> <p>14 instruction.</p> <p>15 When I say I accept the instruction, I don't</p> <p>16 mean that I agree with it. I mean I don't want to fight</p> <p>17 about it.</p> <p>18 MR. ROCHON: I understand.</p> <p>19 MR. WISTOW: Okay.</p> <p>20 Q. It goes on to say that it ran counter to</p> <p>21 international law.</p> <p>22 Did you have any knowledge at the time of what</p> <p>23 international law was being referred to?</p> <p>24 MR. ROCHON: Same objection. Any knowledge</p> <p>25 would have been based on advice of counsel.</p>	<p>1 MR. ROCHON: Thank you.</p> <p>2 MR. WISTOW: (Indicating).</p> <p>3 MR. ROCHON: We should probably have it</p> <p>4 marked.</p> <p>5 MR. WISTOW: Well, all right.</p> <p>6 MR. ROCHON: I'm not insisting.</p> <p>7 MR. WISTOW: Let's not mark it now. I</p> <p>8 promise you we're going to get into it and we'll mark</p> <p>9 it.</p> <p>10 MR. ROCHON: Thank you.</p> <p>11 MR. WISTOW: Okay.</p> <p>12 (Witness peruses document.)</p> <p>13 MR. ROCHON: And the section that's quoted</p> <p>14 there, do you mind if I note where it is, counsel, in</p> <p>15 the letter?</p> <p>16 MR. WISTOW: No. I don't mind.</p> <p>17 MR. ROCHON: It's at the top of page 2 of</p> <p>18 the letter, Mr. Prime Minister.</p> <p>19 THE WITNESS: Top of page 2?</p> <p>20 MR. ROCHON: Yes. That paragraph</p> <p>21 (indicating).</p> <p>22 (Witness peruses document.)</p> <p>23 A. Okay.</p> <p>24 Q. Okay. Do you have my question in mind, or would</p> <p>25 you like me to repeat it?</p>
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<p>1 Q. Then it says, And the laws of several foreign</p> <p>2 states in which the PNA operates.</p> <p>3 Did you have any knowledge which foreign states</p> <p>4 were being referred to?</p> <p>5 MR. ROCHON: Same objection, and the answer</p> <p>6 would be based on the advice of counsel.</p> <p>7 MR. WISTOW: Okay.</p> <p>8 Q. Now, you go on to say in your affidavit, I</p> <p>9 further explained to Secretary Rice my understanding at</p> <p>10 the time that the PNA's failure to "file an unqualified</p> <p>11 appearance in answer to Plaintiffs' complaint" had</p> <p>12 occurred in order to preserve our legal position both in</p> <p>13 the United States and overseas with respect to potential</p> <p>14 efforts by Plaintiffs to seek enforcement of the default</p> <p>15 judgment in other countries.</p> <p>16 Have I read that correctly?</p> <p>17 A. Yes, you have.</p> <p>18 Q. Okay. Now, do you know if anybody told you of</p> <p>19 any risks associated with taking that legal position?</p> <p>20 And I -- well, okay.</p> <p>21 (Witness peruses document.)</p> <p>22 MR. ROCHON: Counsel, could you show the</p> <p>23 witness the full letter that you're asking him about</p> <p>24 parts of it.</p> <p>25 MR. WISTOW: Sure.</p>	<p>1 A. You asked me if I recall if somebody told me what</p> <p>2 this is about in terms of implications.</p> <p>3 Q. If anybody ever told you there was any risk</p> <p>4 associated with the position set forth in the letter.</p> <p>5 That's what I'm asking you.</p> <p>6 A. All I can tell you is I must have had good reason</p> <p>7 to really include this. This is a June 18, 2005 letter,</p> <p>8 so I must have been aware of that risk at the time I</p> <p>9 sent that letter.</p> <p>10 Q. What risk?</p> <p>11 A. That you're referring to.</p> <p>12 Q. What am I referring to?</p> <p>13 A. In terms of why it is we acted the way we did,</p> <p>14 not filing an unqualified appearance before the Court.</p> <p>15 That's what I thought you asked.</p> <p>16 Q. Okay. Well, I'm glad you said that because you</p> <p>17 misunderstood me. It's my fault probably. I didn't ask</p> <p>18 the question very well.</p> <p>19 What I'm trying to find out is whether you</p> <p>20 understood that any risk was associated with taking that</p> <p>21 position with the Court.</p> <p>22 A. Any risk?</p> <p>23 Q. If anything bad could happen by taking that</p> <p>24 position. That's what I'm asking.</p> <p>25 A. But that's how I understood the question.</p>

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<p>1 Q. Okay. Can you answer it?</p> <p>2 A. Basically, what I said. I must have been aware</p> <p>3 of that risk for me to refer to it.</p> <p>4 Q. What was that risk?</p> <p>5 A. As I explained to you.</p> <p>6 Q. That you would be defaulted?</p> <p>7 A. Yes.</p> <p>8 Q. So you were aware of that risk?</p> <p>9 A. Basically, I was afraid -- basically, the concern</p> <p>10 that we had is that this could form a basis for</p> <p>11 collection against us everywhere.</p> <p>12 Q. I'm not talking about that. Slow down for a</p> <p>13 second, okay?</p> <p>14 A. Yes.</p> <p>15 Q. You explained to her --</p> <p>16 A. Yes.</p> <p>17 Q. -- that -- take a look at it -- that you failed</p> <p>18 to file an unqualified appearance in answer to the</p> <p>19 Plaintiffs' complaints, right?</p> <p>20 You told her that?</p> <p>21 A. Yes. Here it is. To preserve our legal</p> <p>22 position, both in the United States and overseas, with</p> <p>23 respect to any potential efforts by Plaintiffs to seek</p> <p>24 enforcement of the default judgment in other countries.</p> <p>25 The PNA and the PLO continued to maintain that</p>	<p>1 Q. Yes. The letter that you just handed me is the</p> <p>2 letter referred to in your declaration, is it not?</p> <p>3 A. Yes. Yes, it is.</p> <p>4 MR. WISTOW: Can we mark that. Did I give</p> <p>5 you guys copies?</p> <p>6 MR. ROCHON: No. You gave the Prime</p> <p>7 Minister the one the court reporter will mark once I</p> <p>8 stop talking.</p> <p>9 (Exhibit No. 6 marked for identification.)</p> <p>10 Q. Now, you left -- well, strike that.</p> <p>11 Did you get an answer to the letter?</p> <p>12 A. I don't remember if I got an answer to the letter</p> <p>13 because, you know, I left not long after that.</p> <p>14 Q. Well, this letter was sent in June of 2005. When</p> <p>15 did you leave?</p> <p>16 A. I believe November 2005.</p> <p>17 Q. Wasn't it December of 2005?</p> <p>18 A. Yes.</p> <p>19 Q. Could be?</p> <p>20 A. Yes. Exact date? Yes. Maybe early December</p> <p>21 probably. Yes.</p> <p>22 Q. Okay. So that's -- I don't know --</p> <p>23 A. I mean, officially, it's like one's resignation</p> <p>24 goes into effect and what have you.</p> <p>25 Q. Okay. Well, how many months between the time you</p>
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<p>1 the District Court lacked both personal jurisdiction</p> <p>2 over them and subject matter jurisdiction over the</p> <p>3 dispute; and according -- and, accordingly, did not file</p> <p>4 an unqualified appearance in answer to the Plaintiffs.</p> <p>5 Q. I understand. What I'm asking you is, you</p> <p>6 understood that a possible risk of not filing an</p> <p>7 unqualified answer was that you could be defaulted,</p> <p>8 correct?</p> <p>9 A. Yes. That's basically -- yes. I see that as a</p> <p>10 risk.</p> <p>11 Q. Okay. Fair enough.</p> <p>12 And now, in your declaration, you say, My focus,</p> <p>13 as Finance Minister for the PA, was solely on the</p> <p>14 immediate financial implications of the litigation.</p> <p>15 You see that?</p> <p>16 A. Where?</p> <p>17 Q. In your declaration, towards the end of</p> <p>18 paragraph 5. Do you see that?</p> <p>19 A. Toward the end -- My focus, as Finance Minister</p> <p>20 for the PA, was solely on the immediate financial</p> <p>21 implications of the litigation and, as noted, my role as</p> <p>22 Finance Minister ended not long -- yes -- not long after</p> <p>23 I sent the correspondence to Secretary Rice. Yes.</p> <p>24 Q. All right. May I have the letter?</p> <p>25 A. The letter? Yes (indicating).</p>	<p>1 sent this letter and your leaving?</p> <p>2 A. I left in early December. This is June 18.</p> <p>3 Five, six months.</p> <p>4 Q. So you're unable to tell me whether or not you</p> <p>5 got a response?</p> <p>6 A. Written -- written response on this, I'm not sure</p> <p>7 exists. I don't remember receiving a written response</p> <p>8 to this letter.</p> <p>9 Q. Okay. Did you get an oral response?</p> <p>10 A. I probably did, in the sense of, you know,</p> <p>11 communication that the matter is under consideration, or</p> <p>12 something like that.</p> <p>13 Q. Are you speculating?</p> <p>14 A. In the nature of things, I am, because that's how</p> <p>15 business is done usually on matters like this. It's not</p> <p>16 -- and it's in line with practice.</p> <p>17 Q. Yes. But what I'd like to do is -- you're under</p> <p>18 oath. It's a very serious matter.</p> <p>19 I'm asking you, did you have an oral discussion</p> <p>20 with Condoleezza Rice about the contents of your letter.</p> <p>21 A. Something to the effect of what I just said.</p> <p>22 Cannot be more than that.</p> <p>23 Q. I don't know what you just said, to be honest.</p> <p>24 A. What I said before. Something to the effect that</p> <p>25 the matter was under consideration.</p>

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<p>1 Q. So she did not say that to you?</p> <p>2 A. Not she personally. I don't remember who</p> <p>3 actually communicated this.</p> <p>4 Q. Somebody did?</p> <p>5 A. Yes. Somebody did.</p> <p>6 Q. Where were you when they communicated this? Were</p> <p>7 you in Washington?</p> <p>8 A. No. You know, there are always contacts between</p> <p>9 us and the United States. I don't have to be physically</p> <p>10 present nor does the Secretary have to be physically</p> <p>11 here.</p> <p>12 Q. I'm aware there are telephones.</p> <p>13 A. In addition, they have representation as well</p> <p>14 here.</p> <p>15 Q. But here's what I'm trying to find out, okay?</p> <p>16 A. Yes.</p> <p>17 Q. You wrote a letter in June. I'm trying to find</p> <p>18 out if there was ever any kind of response to it,</p> <p>19 whether it was oral, whether it was written.</p> <p>20 Can you tell me?</p> <p>21 A. I am trying to remember now.</p> <p>22 Q. And if you don't remember, just say that. Please</p> <p>23 don't speculate.</p> <p>24 A. I'm not speculating. I'm just trying to</p> <p>25 remember.</p>	<p>1 it was important to do it in this expansive fashion at</p> <p>2 the time.</p> <p>3 Now, again, given the way business is done,</p> <p>4 matters like this and others, there would be subsequent</p> <p>5 communication in the sense of, you know, something is</p> <p>6 being done about this. It's being looked at.</p> <p>7 I can't really tell you for sure. I know</p> <p>8 something like that must have happened.</p> <p>9 Q. You expect you got some kind of reply?</p> <p>10 A. But not anything more than I told you.</p> <p>11 Q. You don't even remember that?</p> <p>12 A. I don't.</p> <p>13 Q. Maybe they said they'll take it under</p> <p>14 consideration? Maybe --</p> <p>15 A. Not anything more than that.</p> <p>16 Q. That's the most?</p> <p>17 A. Yes.</p> <p>18 Q. But even that may not have happened?</p> <p>19 A. You know --</p> <p>20 Q. It's unlikely, but --</p> <p>21 A. It's unlikely. It's unlikely. It's unlikely.</p> <p>22 Q. But you can say --</p> <p>23 A. It's unlikely.</p> <p>24 Q. -- you'd expect to get something. But you don't</p> <p>25 remember it at all?</p>
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<p>1 First of all, there was no letter that I can</p> <p>2 recall on this one, on this issue, other than letters</p> <p>3 which had different things in them.</p> <p>4 In terms of, you know, communication on the</p> <p>5 substance of what this was about, I can't be a hundred</p> <p>6 percent certain, but it is most unlikely, given the</p> <p>7 importance of the case, that there was no, you know,</p> <p>8 communication to the effect that I just told you.</p> <p>9 Exactly when it happened, do I think for sure, I</p> <p>10 cannot tell you.</p> <p>11 Q. What you're saying is, by custom and usage --</p> <p>12 A. Yes.</p> <p>13 Q. -- it would be very unusual --</p> <p>14 A. Yes.</p> <p>15 Q. -- for the Finance Minister to write to the</p> <p>16 Secretary of State of the United States and not get the</p> <p>17 courtesy of a reply?</p> <p>18 Is that what you're saying?</p> <p>19 A. Well, you know, not necessarily in those precise</p> <p>20 terms that you use. But in the way business is done</p> <p>21 between governments --</p> <p>22 Q. Yes?</p> <p>23 A. -- you submit a letter, because there are so many</p> <p>24 facts to it. And I do not know the extent to which, at</p> <p>25 the time, the Secretary was aware of any of this, being</p>	<p>1 A. And if, for no other reason, because of, you</p> <p>2 know, my own interest in it. I mean there's just no way</p> <p>3 that I would not really have asked again, you know, as</p> <p>4 to what happened and where things were.</p> <p>5 But I, sitting here now several years later --</p> <p>6 five years later -- I cannot tell you exactly.</p> <p>7 Q. So you agree with me this was important to you?</p> <p>8 A. Oh, it was.</p> <p>9 Q. Okay. But you don't remember the follow-up? You</p> <p>10 don't remember the follow-up?</p> <p>11 A. It was a matter of a few months only.</p> <p>12 Q. Whether it was a few months or a few years, you</p> <p>13 don't remember any follow-up, correct?</p> <p>14 A. In the months -- in the months that followed, and</p> <p>15 while I was still in government, there was not anything</p> <p>16 beyond what I told you --</p> <p>17 Q. Okay.</p> <p>18 A. -- you know.</p> <p>19 Q. So did you speak to anybody in government before</p> <p>20 you left and say, look, we need to follow up with</p> <p>21 Condoleezza Rice, or something to that effect?</p> <p>22 Did you do that?</p> <p>23 A. You know, in the nature of -- this is something,</p> <p>24 this particular -- this particular letter, as a matter</p> <p>25 of fact, I remember personally handing it over to the</p>

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<p>1 Secretary in a meeting by both sides, Palestinian and</p> <p>2 American delegation, headed Condoleezza Rice. And also</p> <p>3 there were several ministers in the room.</p> <p>4 And, when I left, it was basically left with my</p> <p>5 successor, everything that was there.</p> <p>6 Q. Let me make sure I understood what you just said.</p> <p>7 You said you physically handed this letter to</p> <p>8 Condoleezza Rice?</p> <p>9 A. I remember that. I explained it verbally; and</p> <p>10 then I said, I have a letter to give you.</p> <p>11 Q. Okay. And you didn't get an answer right then</p> <p>12 and there, did you?</p> <p>13 A. No. I did not, no.</p> <p>14 Q. So -- and you don't recollect ever hearing a</p> <p>15 response before you left government, correct?</p> <p>16 A. I do not have exact or specific recollection of</p> <p>17 that happening.</p> <p>18 Q. You think, by custom and usage --</p> <p>19 A. Yes.</p> <p>20 Q. -- it probably happened?</p> <p>21 A. Yes. But to the extent I explained to you.</p> <p>22 Q. Okay. Fair enough. So, at most, somebody said,</p> <p>23 We're thinking about it?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Now, when you left and you handed your</p>	<p>1 A. -- somebody to follow up on this letter to</p> <p>2 Secretary Rice.</p> <p>3 But, by then, you know, it was known that there</p> <p>4 was an important issue to be pursued by whoever took</p> <p>5 over the portfolio.</p> <p>6 Q. How did you know that it was known that there was</p> <p>7 an important issue to take over? How do you know that</p> <p>8 this was just not a piece of paper filed in a file?</p> <p>9 Did you talk to people about it?</p> <p>10 MR. ROCHON: Objection. Those are three</p> <p>11 questions, and you have to pick which one you want him</p> <p>12 to answer.</p> <p>13 MR. WISTOW: Okay.</p> <p>14 Q. How do you know that anybody was aware of this</p> <p>15 issue?</p> <p>16 A. That is why I told you -- actually I remembered,</p> <p>17 as I tried to understand basically what it is you're</p> <p>18 looking for and asking about -- is that this was a</p> <p>19 matter of importance to us, and not just an individual.</p> <p>20 And that's why I remember handing it over in a</p> <p>21 meeting, official meeting, attended by several officers</p> <p>22 on both sides, as a matter of fact.</p> <p>23 Q. Is this meeting when you gave it to Condoleezza</p> <p>24 Rice?</p> <p>25 A. Yes.</p>
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<p>1 portfolio over to somebody, who was that you handed the</p> <p>2 portfolio to?</p> <p>3 A. My deputy at the time.</p> <p>4 Q. What was his name?</p> <p>5 A. Jihad Al-Wazir.</p> <p>6 Q. What?</p> <p>7 A. Jihad Al-Wazir.</p> <p>8 Q. How do you spell that?</p> <p>9 A. J I H A D, A L W A Z I R.</p> <p>10 Q. Okay. Now --</p> <p>11 A. Can I explain this so this is placed in context?</p> <p>12 This was something that lasted only three months</p> <p>13 or so, because, after that, there was total government</p> <p>14 change and Hamas came in power.</p> <p>15 Well, you know, just so you know.</p> <p>16 Q. Right.</p> <p>17 A. It was a period of transition, in other words.</p> <p>18 Q. Mr. Fayyad, have I not displayed to you that, if</p> <p>19 I want to know something, I'll ask. Haven't you figured</p> <p>20 that out, with all due respect?</p> <p>21 MR. WISTOW: I'll withdraw the comment.</p> <p>22 Q. Mr. Fayyad, did you ask anybody to follow up with</p> <p>23 Condoleezza Rice on this letter?</p> <p>24 A. No. I did not specifically ask --</p> <p>25 Q. Okay.</p>	<p>1 Q. I'm not talking about that.</p> <p>2 A. Yes.</p> <p>3 Q. I'm talking about before you left --</p> <p>4 A. Yes.</p> <p>5 Q. -- months later --</p> <p>6 A. Yes.</p> <p>7 Q. -- did you ask anybody in government, Follow up</p> <p>8 with Condoleezza Rice on this, what you've said, very</p> <p>9 important matter?</p> <p>10 A. Yes. No. I did not specifically on this very</p> <p>11 matter.</p> <p>12 Q. Okay.</p> <p>13 A. But, you know, it was understood this is an</p> <p>14 important matter.</p> <p>15 Q. How -- that's what I'm trying to find out. How</p> <p>16 do you know -- who knew it was an important matter? Who</p> <p>17 are the human beings you're talking about?</p> <p>18 MR. ROCHON: That's the question you started</p> <p>19 answering when you said he wasn't answering the</p> <p>20 question.</p> <p>21 Q. Who knew about this important matter?</p> <p>22 A. Everybody who was in that room. Everybody -- I</p> <p>23 mean --</p> <p>24 Q. Who was that?</p> <p>25 A. There were several ministers at the time at that</p>

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<p>1 meeting.</p> <p>2 Q. Who?</p> <p>3 A. I don't remember for sure, but probably the</p> <p>4 Minister of Foreign Affairs was there.</p> <p>5 Q. What was his name?</p> <p>6 A. The Prime Minister then was there for sure. I</p> <p>7 mean, there were several ministers attending.</p> <p>8 This is something that was, by that time, you</p> <p>9 know, discussed widely. I mean it's --</p> <p>10 Q. It was a big deal?</p> <p>11 A. Yes. It was a big deal. Definitely, it was a</p> <p>12 big deal. For sure it was a big deal.</p> <p>13 Q. Okay. When you came back into government --</p> <p>14 A. Yes.</p> <p>15 Q. -- did you, because it was such a big deal, try</p> <p>16 to find out what happened?</p> <p>17 A. Yes.</p> <p>18 Q. What did you find out?</p> <p>19 A. I found out that, as a matter of fact, that the</p> <p>20 President's office was seeing to the matter, and that</p> <p>21 they were in the process of trying to find legal</p> <p>22 representation.</p> <p>23 And, you know, then I took over and I basically</p> <p>24 carried this forward, and took -- and played an active</p> <p>25 role in actually finding us legal representation to</p>	<p>1 considered.</p> <p>2 Q. So you followed up?</p> <p>3 A. Yes. Yes.</p> <p>4 Q. How did you follow up? What did you do?</p> <p>5 A. I don't know. Typically, generally, first thing</p> <p>6 you do when you have something like this --</p> <p>7 Q. Yes?</p> <p>8 A. -- is to actually talk to the US representative</p> <p>9 here.</p> <p>10 Q. To the what?</p> <p>11 A. To the US representative here.</p> <p>12 Q. In Palestine?</p> <p>13 A. The Consul General in Jerusalem, yes.</p> <p>14 Q. Did you do that?</p> <p>15 A. Well, now, I really --</p> <p>16 Q. Did you do that?</p> <p>17 MR. ROCHON: Let him finish the answer.</p> <p>18 A. I can tell you, in all likelihood, given the</p> <p>19 importance of the matter, I must have done.</p> <p>20 Q. Okay. Where were you? In his consulate?</p> <p>21 A. Pardon?</p> <p>22 Q. Was it in his consulate?</p> <p>23 A. Or in my office, or over the phone.</p> <p>24 Q. You don't remember?</p> <p>25 A. I don't remember.</p>
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<p>1 pursue these cases.</p> <p>2 Q. I'm not talking about that. I'm talking about,</p> <p>3 you asked Condoleezza Rice to do something, right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Up to the time you left --</p> <p>6 A. Yes.</p> <p>7 Q. -- you don't know if you ever heard from her</p> <p>8 again, right?</p> <p>9 MR. ROCHON: Objection. Asked and answered.</p> <p>10 A. Well, as I told you --</p> <p>11 MR. WISTOW: I'm trying to put him back</p> <p>12 on --</p> <p>13 A. I really don't remember. I told you that.</p> <p>14 Q. You don't remember hearing from her. So, at</p> <p>15 best, you told me before, you were told that the whole</p> <p>16 issue was under advisement.</p> <p>17 Do you remember that?</p> <p>18 A. Oh, yes. What I'm really saying to you is I do</p> <p>19 not remember specific, you know, communication on this</p> <p>20 matter.</p> <p>21 Given the importance that we attached to this at</p> <p>22 the time, it is most unlikely that I did not follow up</p> <p>23 on it. Even if I did, the customary answer would have</p> <p>24 been -- most likely something given as an answer was</p> <p>25 that, you know, it was something that was being</p>	<p>1 Q. Do you remember what he said?</p> <p>2 MR. ROCHON: Counsel, you're repeating. I'm</p> <p>3 not getting upset, because you don't like it, but it's</p> <p>4 been several times. Let him finish.</p> <p>5 MR. WISTOW: Okay.</p> <p>6 THE WITNESS: Yes.</p> <p>7 A. You know, as I tried to explain --</p> <p>8 Q. Please, what did the US Consulate say?</p> <p>9 A. Let me try to really say this -- I hope the last</p> <p>10 time -- in a way that is clear or adequately and</p> <p>11 sufficiently understood.</p> <p>12 The matter is of importance to us. I submitted</p> <p>13 this letter to the Secretary. In all likelihood, given</p> <p>14 the importance of that matter to us, I must have, at the</p> <p>15 time, followed up by asking, you know, questions as to</p> <p>16 where do we stand on the matter, given what was</p> <p>17 involved, given the importance of the issues.</p> <p>18 Typically, those communications first take place</p> <p>19 through and with the US Consul General in Jerusalem.</p> <p>20 This could have happened at his office, at my office,</p> <p>21 his office, my office, or telephone call. You know,</p> <p>22 things like this happen all the time.</p> <p>23 I mean this is in the nature of on-going concern.</p> <p>24 To not have gotten a written response to a letter like</p> <p>25 this which is saying, you know, we have a problem, is</p>

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<p>1 not out of the ordinary, to not have gotten a response 2 in writing. 3 So I think all of this is within the realm of 4 what is most likely to have happened. 5 Q. Okay. Do you have any recollection -- a real 6 memory -- of anything happening? 7 A. Memo? 8 MR. ROCHON: No, no. He didn't say memo. 9 He said memory. 10 Q. Memory. 11 A. Memory. All I'm telling you -- 12 Q. Do you have any memory, sir? 13 A. What kind of question is this? 14 Q. What kind of question? 15 A. Yes. 16 Q. Do you know what memory is? 17 MR. ROCHON: Your question wasn't specific. 18 You said, Do you have any memory. 19 Q. Do you have any memory of getting a response from 20 the American Consulate? Yes or no. 21 A. I'm not, you know, with all due respect, counsel, 22 I mean I told you everything I know about this in the 23 way it must have happened. 24 This is five years ago. Try to please understand 25 my world.</p>	<p>1 Q. I'm going to ask you yet again. 2 Do you remember it happening, or are you saying 3 it must have happened? 4 A. It must have happened. 5 Q. But you don't remember it, is that fair? You 6 believe it happened? 7 A. Yes. 8 Q. You believe it? 9 A. Yes. 10 Q. But you don't remember it, true? 11 MR. ROCHON: Counsel, it's been asked and 12 answered. 13 MR. WISTOW: No. I never got an answer that 14 he has no memory. 15 A. I mean if it settles it if I were to say no, I 16 don't remember, I don't remember. If it settles it. 17 Thank you. 18 Q. If it's true. I don't want you to -- 19 A. I know. But you're pushing me so much. You want 20 to really end this line of questioning. I'm compelled 21 to say no, I don't remember, to move on. I mean really. 22 Q. No. You're compelled to answer the truth. You 23 swore an oath. 24 A. I am trying. Honest to God, all I'm trying to do 25 is to answer most faithfully all the questions that you</p>
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<p>1 Q. Okay. 2 A. You know, here I am dealing with all kinds of 3 things, and I have been over the past three years. 4 Something that happened five years ago, in all 5 likelihood this is what has happened. 6 I've given you a scenario. I talk to the 7 Americans all the time about just about everything, 8 about all aspects of bilateral relations, on an ongoing 9 basis. That is one of them. 10 Q. Mr. Fayyad, I'm not suggesting there's anything 11 wrong if you don't remember. 12 A. Yes. 13 Q. I'm just trying to find out whether or not you do 14 remember. That's all I'm trying to find out. 15 Do you remember? 16 A. And what I'm really trying to tell you is that 17 this is something that must have happened really. 18 Q. Do you have a memory of it happening? 19 A. I cannot imagine it not having happened. 20 Q. Do you have a memory of it happening? 21 A. I'm trying, you know. What you're asking me, I 22 mean I really -- there is no other way in which I can 23 answer this question. 24 It must have happened. That's what I'm really 25 trying to tell you.</p>	<p>1 are putting to me. 2 And I am trying to provide you with some 3 contextual remarks as to what has happened to try to 4 really project it as best as I can. 5 Q. All I'm asking -- it's very simple -- 6 A. Yes. 7 Q. -- is whether you have a memory of getting a 8 response from the American Consulate. That's all I'm 9 asking. 10 And you said, a moment ago -- 11 A. The answer is no. Let's move on, please. And I 12 accept that as a matter of record, whatever happens, 13 just so we can move on really. 14 I feel I am being badgered here. 15 Q. I apologize if you feel that way. I feel like 16 I'm doing my job, and I intend to proceed. 17 MR. WISTOW: If you want to take a moment to 18 take a break? 19 MR. ROCHON: Can I just do this? 20 MR. WISTOW: Yes. 21 MR. ROCHON: It's maybe that there's a 22 suggestion that is being perceived that, when you say 23 somebody doesn't have a memory, that therefore it didn't 24 happen. 25 MR. WISTOW: But that's not my fault. I</p>

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<p>1 mean I don't -- look --</p> <p>2 MR. ROCHON: If we could clear --</p> <p>3 MR. WISTOW: I don't want to get into this</p> <p>4 speaking thing. I don't want to get into a discussion</p> <p>5 with you. I was told that he doesn't need a translator.</p> <p>6 I told he's fluent in English.</p> <p>7 MR. ROCHON: There's no issue with</p> <p>8 translation.</p> <p>9 MR. WISTOW: That's right. It's not an</p> <p>10 issue. It's a common thing. I've asked this kind of</p> <p>11 question hundreds, if not thousands, of times. It's</p> <p>12 very symbol. Do you remember it? Not do you believe it</p> <p>13 happened because that's the custom, but do you remember</p> <p>14 it.</p> <p>15 MR. ROCHON: But you're connecting --</p> <p>16 MR. WISTOW: And you understand. Let's just</p> <p>17 move on. We're wasting time. He's answered the</p> <p>18 question.</p> <p>19 MR. ROCHON: I don't understand, but I'll</p> <p>20 move on if you wish.</p> <p>21 MR. WISTOW: I don't mind if you want to</p> <p>22 take him out and talk to him now. It's okay with me.</p> <p>23 MR. ROCHON: I'm actually trying to talk to</p> <p>24 you, but you don't want to talk to me. So let's go.</p> <p>25 MR. WISTOW: Okay.</p>	<p>1 Q. Mr. Clark couldn't defend the case?</p> <p>2 A. I never met Mr. Clark. But I know that</p> <p>3 Mr. Clark -- or I'm aware -- that he had a role in this</p> <p>4 at the time. The position was there was no jurisdiction</p> <p>5 or this was a matter of sovereign immunity.</p> <p>6 And certainly, by early 2007, the view was that</p> <p>7 this was definitely not going to stand, and that we</p> <p>8 really needed to, you know, defend ourselves.</p> <p>9 Q. Were you disappointed with his performance? Is</p> <p>10 that why you discharged him?</p> <p>11 A. You know, all I know is that I take matters like</p> <p>12 this very seriously, lawsuits filed against us.</p> <p>13 There was a position taken at the time, a case of</p> <p>14 sovereign immunity. There was a judgment made at the</p> <p>15 time, as it was when I was first exposed to litigation</p> <p>16 against us first in the Israeli courts.</p> <p>17 And my only view at that time, because that had</p> <p>18 immediate bearing on our finances early on in my career,</p> <p>19 the best thing to do actually was hire legal counsel to</p> <p>20 really defend ourselves in those cases in our Israel.</p> <p>21 Q. That was your decision?</p> <p>22 A. That was my disposition.</p> <p>23 Q. It was actually your decision?</p> <p>24 A. Yes. I'm talking about the earlier cases in</p> <p>25 Israel.</p>
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<p>1 MR. ROCHON: I don't need to talk to the</p> <p>2 Prime Minister about your questions.</p> <p>3 MR. WISTOW: Okay.</p> <p>4 Q. Now, I want to go to your letter. Before I do</p> <p>5 that, just a couple more questions about your</p> <p>6 declaration.</p> <p>7 A. Okay.</p> <p>8 Q. You affirmatively stated --</p> <p>9 A. Which page, please?</p> <p>10 Q. Well, let me finish.</p> <p>11 You affirmatively stated, in paragraph 12, that</p> <p>12 you decided to retain new counsel for the PA and PLO.</p> <p>13 Do you see that? Paragraph 12?</p> <p>14 A. Paragraph 12, yes.</p> <p>15 Q. Why did you decide to retain new counsel for the</p> <p>16 PA and PLO?</p> <p>17 A. Yes. Because of, again, two things.</p> <p>18 Number one, the importance of this matter, which</p> <p>19 I definitely felt.</p> <p>20 And, secondly, that, by that time, as I indicated</p> <p>21 to you before, that there was this discussion and</p> <p>22 evolution in the direction of actively defending</p> <p>23 ourselves in this case, and other cases as well, which</p> <p>24 required retaining lawyers, you know, to do this on our</p> <p>25 behalf.</p>	<p>1 Q. Yes. But you decided to discharge --</p> <p>2 A. That was my decision.</p> <p>3 Q. -- Ramsey Clark, correct?</p> <p>4 A. It was my decision to have new lawyers.</p> <p>5 Q. Well, to get a new lawyer means to get rid of the</p> <p>6 old one?</p> <p>7 A. I don't know if I had the authority to fire or</p> <p>8 discharge lawyers or do something like that. What I</p> <p>9 knew was we needed new counsel.</p> <p>10 Q. In addition to Ramsey Clark?</p> <p>11 A. Yes, for sure. I mean I did not analyze --</p> <p>12 Q. What happened to Ramsey Clark?</p> <p>13 A. I honestly don't know.</p> <p>14 Q. You don't know?</p> <p>15 A. I don't.</p> <p>16 Q. You don't know if he was discharged or not?</p> <p>17 A. Ramsey Clark does not represent us anymore. I</p> <p>18 may have actually done something about this, but I don't</p> <p>19 remember. I mean but, for sure, he's not -- he doesn't</p> <p>20 represent us in these cases.</p> <p>21 Q. No, no. I understand. That's why I'm asking the</p> <p>22 question what happened.</p> <p>23 Was he discharged?</p> <p>24 A. Yes. There was -- some formal process no doubt</p> <p>25 must have happened, again.</p>

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<p>1 Q. Again, you don't remember?</p> <p>2 A. I don't remember for sure. But that is most</p> <p>3 likely what has happened.</p> <p>4 Q. What's most likely happened?</p> <p>5 A. To have a --</p> <p>6 Q. -- a formal process?</p> <p>7 A. Yes, I mean in the sense of notifying him. And,</p> <p>8 as a matter of fact, it may have been me who did it.</p> <p>9 Q. But you don't remember?</p> <p>10 A. But I don't remember for sure.</p> <p>11 Q. Okay. Were you dissatisfied with him?</p> <p>12 A. Well, how can you be -- I mean you never know,</p> <p>13 when you're on a path of, you know, pursuing something a</p> <p>14 certain way, the judgment is that this is the right</p> <p>15 approach to take, it's difficult to know exactly how</p> <p>16 things were going to go.</p> <p>17 For sure, you know, with the benefit of what we</p> <p>18 knew at the time we -- there was enough support for</p> <p>19 moving forward with a new strategy. I believe it was</p> <p>20 definitely the right course.</p> <p>21 Q. I'm asking whether or not you were dissatisfied</p> <p>22 with him as a lawyer.</p> <p>23 A. You know, I can't really now, you know, sit here</p> <p>24 and pass judgment on, if I can say legal counsel, in</p> <p>25 this matter or any other matter.</p>	<p>1 A. But then, you know, here we are -- I mean, the</p> <p>2 way I decide things, you know, you're running a certain</p> <p>3 strategy today and you have certain individuals --</p> <p>4 lawyers and non-lawyers -- doing it for you, and then</p> <p>5 you pursue an entirely different strategy.</p> <p>6 Common sense, as far as I'm concerned, you know,</p> <p>7 required that I retain services of new lawyers to pursue</p> <p>8 the new strategy, not the outgoing one.</p> <p>9 How can a lawyer, who was yesterday arguing on</p> <p>10 our behalf a certain key defense on grounds of</p> <p>11 jurisdiction so emphatically and categorically, go the</p> <p>12 next day and say -- I don't know --</p> <p>13 Q. So you weren't dissatisfied?</p> <p>14 A. It's just a natural thing for me to do.</p> <p>15 Q. So you weren't dissatisfied?</p> <p>16 MR. ROCHON: Objection.</p> <p>17 A. I don't think in those terms really, honestly. I</p> <p>18 mean I'm a practical person. I mean we're moving on.</p> <p>19 Different strategy, different lawyers.</p> <p>20 THE VIDEOGRAPHER: Excuse me. I'd like to</p> <p>21 change the tape.</p> <p>22 MR. ROCHON: Yes. Please. Off the record.</p> <p>23 THE VIDEOGRAPHER: Going off record at 7:16.</p> <p>24 (Short recess taken.)</p> <p>25 THE VIDEOGRAPHER: Going on record at 7:30.</p>
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<p>1 Q. I'm not asking you to pass judgment.</p> <p>2 I'm asking, in your mind at the time -- let me</p> <p>3 finish -- in your mind, at the time, were you</p> <p>4 dissatisfied with him.</p> <p>5 MR. ROCHON: Objection, counsel, to the form</p> <p>6 of the question.</p> <p>7 A. Well, I guess, given what I also told you about</p> <p>8 my position on the other cases, you know, I had my</p> <p>9 doubts. So, therefore, I really wanted us to move</p> <p>10 forward, move forward with a new strategy.</p> <p>11 Q. Were you dissatisfied with him?</p> <p>12 A. I can't say I was dissatisfied with the person</p> <p>13 here, with the lawyer. All I can tell you is that</p> <p>14 obviously was a strategy that did not work out.</p> <p>15 Q. Did you consider telling him about the new</p> <p>16 strategy and instructing him to go forward with the new</p> <p>17 strategy?</p> <p>18 A. I was not involved in the litigation early on. I</p> <p>19 wasn't.</p> <p>20 Q. I'm talking about the retaining of new counsel.</p> <p>21 Weren't you the person who did that?</p> <p>22 A. I can't tell you for sure it was.</p> <p>23 Q. Weren't you the person who did that?</p> <p>24 A. I can't tell you for sure it was.</p> <p>25 Q. Okay.</p>	<p>1 Q. Paragraph 13 of your declaration, line 4 -- well,</p> <p>2 why don't you just read paragraph 13 to yourself, up to</p> <p>3 and including the sentence beginning, I personally</p> <p>4 commit.</p> <p>5 (Witness peruses document.)</p> <p>6 A. Yes. I have.</p> <p>7 Q. Okay. When you say you personally commit to</p> <p>8 sustain this instruction, obviously you can be voted out</p> <p>9 of office at any time, yes?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. I'm trying to find out what this means, I</p> <p>12 personally commit.</p> <p>13 If the instructions are changed somehow, do you</p> <p>14 submit to the jurisdiction of the Federal Court in</p> <p>15 Providence? Does your commitment extend to that?</p> <p>16 MR. ROCHON: Objection, counsel. Three</p> <p>17 questions that time. Again, just try to ask one at a</p> <p>18 time.</p> <p>19 MR. WISTOW: Okay.</p> <p>20 Q. I'm trying to find out what I personally commit</p> <p>21 means.</p> <p>22 A. Okay.</p> <p>23 Q. If there's a departure from this commitment, do</p> <p>24 you personally submit to the jurisdiction of the court</p> <p>25 in Rhode Island?</p>

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<p>1 A. I meant for the statement to be an emphatic</p> <p>2 expression of commitment that the whole system is</p> <p>3 stating. When I say I personally, I meant it in that</p> <p>4 way.</p> <p>5 Q. I'm not clear. It says, I personally commit.</p> <p>6 I'm trying to find out what happens if that commitment</p> <p>7 is somehow not fulfilled.</p> <p>8 Will you agree to submit to the Federal Court in</p> <p>9 Providence?</p> <p>10 MR. ROCHON: Objection. Mr. Prime Minister,</p> <p>11 do not answer that question. It's an argument.</p> <p>12 MR. WISTOW: It's not an argument. It's a</p> <p>13 question. I'm asking him if he's willing to do that.</p> <p>14 I'm trying to test the personal commitment. That's all.</p> <p>15 MR. ROCHON: You don't want speaking</p> <p>16 objections.</p> <p>17 MR. WISTOW: Okay. Okay. Okay.</p> <p>18 MR. ROCHON: If you clarify your question.</p> <p>19 What are you asking him? You want to ask that question,</p> <p>20 you want to --</p> <p>21 MR. WISTOW: What does the personal</p> <p>22 commitment amount to? What happens if you violate your</p> <p>23 commitment?</p> <p>24 MR. ROCHON: By you, counsel, you mean you</p> <p>25 meaning --</p>	<p>1 Minister of Palestinian Authority, expecting fully well</p> <p>2 the commitment to be honored by whoever proceeds me.</p> <p>3 Q. What if Hamas comes into power again?</p> <p>4 A. And then, if I'm sued on the basis of a</p> <p>5 representation that I made here, I'd find that</p> <p>6 reasonable.</p> <p>7 Q. So you're saying you do feel that you would have</p> <p>8 personal liability?</p> <p>9 MR. ROCHON: Counsel --</p> <p>10 Q. Is that what you're saying?</p> <p>11 MR. ROCHON: Mr. Prime Minister, and</p> <p>12 counsel, when you talk about personal liability,</p> <p>13 counsel, you're -- you know you're -- I'll have to ask</p> <p>14 Mr. Prime Minister -- I'll have to ask him to step out.</p> <p>15 You know we need to discuss this. This is a</p> <p>16 ridiculous line of inquiry. I'll ask the witness to</p> <p>17 step out and we can argue about it and you can move on.</p> <p>18 I don't want to argue about it in front of</p> <p>19 the witness because you'll get upset.</p> <p>20 So, Ms. Ferguson --</p> <p>21 MR. WISTOW: No. I'm not going to get</p> <p>22 upset. You know what --</p> <p>23 MR. ROCHON: You're not going to get upset</p> <p>24 if I tell you why it's ridiculous?</p> <p>25 MR. WISTOW: Well, no. I'm getting upset</p>
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<p>1 MR. WISTOW: Yes.</p> <p>2 MR. ROCHON: Meaning who?</p> <p>3 MR. WISTOW: You. Mr. Fayyad.</p> <p>4 MR. ROCHON: The Prime Minister?</p> <p>5 MR. WISTOW: Yes.</p> <p>6 A. You know, I mean I think there's a responsibility</p> <p>7 in all of its components and stages and phases. I take</p> <p>8 what I say very seriously. I'm a man of my word. And I</p> <p>9 say I'm responsible and I'm committed means I'm</p> <p>10 committed.</p> <p>11 And so, therefore, if I act in a manner that is</p> <p>12 inconsistent with that commitment, I do not know exactly</p> <p>13 what will happen, but I understand liability. I mean I</p> <p>14 understand I'll be liable for failing to fulfill a</p> <p>15 commitment.</p> <p>16 Q. You understand you will be liable?</p> <p>17 A. I, you know -- let me tell you, first of all, you</p> <p>18 know, my state of mind when I signed this declaration,</p> <p>19 what it means. Certainly, my role, you know, knowledge</p> <p>20 and involvement in the way that is described here.</p> <p>21 But when I say I'm personally committed, I</p> <p>22 personally commit myself to pursuing these things, I</p> <p>23 certainly mean that, but I mean more than that.</p> <p>24 I mean more than just a personal commitment made</p> <p>25 by me. I'm doing it really in my capacity as Prime</p>	<p>1 because you say it's ridiculous, okay? You can say it's</p> <p>2 improper. But, you know what?</p> <p>3 MR. ROCHON: Improper and --</p> <p>4 MR. WISTOW: Let's just move on.</p> <p>5 MR. ROCHON: Okay.</p> <p>6 MR. WISTOW: I got an answer from him that I</p> <p>7 like, and I'll move on.</p> <p>8 MR. ROCHON: Counsel --</p> <p>9 MR. WISTOW: I'll move on. I got an answer</p> <p>10 and I'll move on.</p> <p>11 MR. ROCHON: You move on.</p> <p>12 MR. WISTOW: Okay.</p> <p>13 Q. Now, the last lines of that paragraph says,</p> <p>14 Moreover, it is important to the PA's role in the</p> <p>15 international community to participate in the legal</p> <p>16 process, even when it is process brought in the United</p> <p>17 States for actions by others that occurred far from the</p> <p>18 United States.</p> <p>19 Do you see that? Do you see that?</p> <p>20 A. It is important -- yes, I do.</p> <p>21 Q. I've read that correctly?</p> <p>22 A. Yes, you have.</p> <p>23 Q. Okay. Now, the next line says, The importance of</p> <p>24 this was not fully appreciated by the PA government, as</p> <p>25 a whole, until recently.</p>

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<p>1 Have I read that correctly?</p> <p>2 A. You have, yes.</p> <p>3 Q. First of all, when is recently? What do you mean</p> <p>4 by that? You wrote this declaration.</p> <p>5 A. Yes. You know, I meant actually around the time</p> <p>6 when we moved to defend ourselves and took practical</p> <p>7 steps toward beginning to.</p> <p>8 Q. When was that?</p> <p>9 A. This must have been early 2007, late 2006.</p> <p>10 Q. Okay. Now, you say it was not fully appreciated</p> <p>11 by the PA government as a whole. What do you mean, as a</p> <p>12 whole?</p> <p>13 A. I make reference here to what I had told you</p> <p>14 before about differing views within the PA as to how</p> <p>15 this would be approached, and the process of evolution</p> <p>16 that really took us through the point of seeking to</p> <p>17 defend ourselves actively.</p> <p>18 Q. Who were the people that were involved in these</p> <p>19 discussions?</p> <p>20 A. Just about everybody.</p> <p>21 Q. Just about everybody?</p> <p>22 A. Yes. I mean --</p> <p>23 Q. Can you help me out a little bit? What you're</p> <p>24 indicating is there were a lot of people involved,</p> <p>25 right?</p>	<p>1 A. I forgot where I was.</p> <p>2 Q. We were talking about the members of government</p> <p>3 who participated in these discussions where it was not</p> <p>4 at first fully appreciated by the government as a whole.</p> <p>5 We mentioned President Abbas. And,</p> <p>6 unfortunately, I interrupted you while you were</p> <p>7 continuing.</p> <p>8 Who else?</p> <p>9 A. People involved in this in terms of expressing a</p> <p>10 view on, there were several of those actually.</p> <p>11 Q. Who?</p> <p>12 A. And when I say government here, I mean I do not</p> <p>13 really necessarily mean, you know, government to be</p> <p>14 technically defined to be only Cabinet officers. You</p> <p>15 know, when you say United States government, for</p> <p>16 example, in that sense.</p> <p>17 Certainly Cabinet officers, but others as well.</p> <p>18 Q. Fine. I'm willing to accept whatever you meant</p> <p>19 by this. Who are the people? Tell me the names of the</p> <p>20 people.</p> <p>21 We got one. We got President Abbas. And</p> <p>22 certainly you also, right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Who else?</p> <p>25 A. I don't -- you know, people within the Ministry</p>
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<p>1 A. A lot of people involved in the sense of people</p> <p>2 in government, you know. Not a lot of people outside</p> <p>3 the government.</p> <p>4 Q. I understand, Mr. Fayyad. Who were the people in</p> <p>5 government you're talking about?</p> <p>6 A. Now, you know, the issue would come up from time</p> <p>7 to time. Sometimes in formal settings, sometimes in</p> <p>8 discussion.</p> <p>9 Q. Who are the people you're talking about?</p> <p>10 A. Various ministers, Cabinet officers.</p> <p>11 Q. Let's name some names. President Abbas?</p> <p>12 A. From time to time.</p> <p>13 Q. Yes?</p> <p>14 A. Yes.</p> <p>15 Q. Okay.</p> <p>16 A. He certainly.</p> <p>17 Q. How about the --</p> <p>18 MR. ROCHON: Counsel --</p> <p>19 MR. WISTOW: Sorry. I didn't mean to</p> <p>20 interrupt. I didn't mean to interrupt.</p> <p>21 MR. ROCHON: I know. But you have to</p> <p>22 control yourself and not interrupt, even if you don't</p> <p>23 mean to.</p> <p>24 MR. WISTOW: Okay. Well taken. Fair point.</p> <p>25 Q. Continue.</p>	<p>1 of Finance, for example.</p> <p>2 Q. Which one?</p> <p>3 A. People who --</p> <p>4 Q. No. Which Minister of Finance?</p> <p>5 A. Ministry of Finance.</p> <p>6 Q. How about, can you give me the name of a human</p> <p>7 being?</p> <p>8 A. Deputy Minister of Finance.</p> <p>9 Q. Okay.</p> <p>10 A. Treasurer. Legal counsel, Ministry of Finance.</p> <p>11 It's just one agency. Similarly, Ministry of Justice.</p> <p>12 Q. What?</p> <p>13 A. Ministry of Justice, Ministry of Foreign Affairs.</p> <p>14 Q. Okay. So these were the people who did not</p> <p>15 appreciate it until recently?</p> <p>16 A. No, no. I didn't -- I thought I was answering a</p> <p>17 different question, when you asked about who was</p> <p>18 involved regardless of what, you know, position was</p> <p>19 taken by whom.</p> <p>20 Q. I'm asking you -- it says here, The importance of</p> <p>21 this was not fully appreciated by the PA government as a</p> <p>22 whole.</p> <p>23 Who are the people we're talking about that</p> <p>24 didn't fully appreciate it?</p> <p>25 A. Oh, I was answering a different question. Thank</p>

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<p>1 you for giving an opportunity to clarify.</p> <p>2 I did not mean any of these individuals that I</p> <p>3 referred as having been of the view that the case should</p> <p>4 not be pursued in the way that it's being pursued right</p> <p>5 now, which is to actively defend ourselves.</p> <p>6 I thought I was answering a question as to who</p> <p>7 may have been involved in the discussion with different</p> <p>8 views and different takes, and not necessarily with the</p> <p>9 same degree of depth or seriousness, if you will.</p> <p>10 I mean there could be a casual comment on this by</p> <p>11 someone.</p> <p>12 Q. Okay. You said, and I quote yet again, The</p> <p>13 importance of this was not fully appreciated by the PA</p> <p>14 government as a whole.</p> <p>15 A. Yes.</p> <p>16 Q. You wrote that, correct?</p> <p>17 A. Fine. Yes.</p> <p>18 Q. You believed it?</p> <p>19 A. It's in my declaration. I know it to be true.</p> <p>20 Q. Okay. Now, what I'm trying to find out is what</p> <p>21 human beings are you referring to.</p> <p>22 A. You know, I'm referring actually not only to the</p> <p>23 period of time that I was talking to you about in</p> <p>24 2006-2007, because the line of questioning that took us</p> <p>25 to that was really that time line.</p>	<p>1 political process.</p> <p>2 Q. Yes. But you wrote, The importance of this was</p> <p>3 not fully appreciated by the PA government as a whole.</p> <p>4 A. Yes.</p> <p>5 Q. I'm looking for the names of any people, any</p> <p>6 human beings, that you can identify as not fully</p> <p>7 appreciating as you used the term. Anybody.</p> <p>8 A. You know --</p> <p>9 Q. Is there any human being you can identify?</p> <p>10 A. No. What I can tell you is what I told you</p> <p>11 about. I'm not really going to, you know, maybe</p> <p>12 unfairly characterize someone as having taken a position</p> <p>13 which he or she may not have taken at the time.</p> <p>14 This is a statement of fact. I meant it in the</p> <p>15 same way it appears here, and I still believe in it.</p> <p>16 Q. Right.</p> <p>17 A. There was not really uniformity of view on this,</p> <p>18 clearly.</p> <p>19 For the most part, the overwhelming view was</p> <p>20 that, you know, those cases ought to be really dealt</p> <p>21 with on the basis of, well, jurisdiction. So there was</p> <p>22 that debate.</p> <p>23 I do not know if there was any one individual I</p> <p>24 can point to who was of that view, continued to be of</p> <p>25 that view. So that's the sense in which I meant the</p>
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<p>1 But, historically, when the action was brought</p> <p>2 against us first in the United States -- going back, I</p> <p>3 believe, to 2000 -- clearly, you know, the opinion was</p> <p>4 that the strategy ought to be what it was up until we</p> <p>5 changed it.</p> <p>6 Q. Right.</p> <p>7 A. So I would say, you know, consistent with this</p> <p>8 having happened, clearly, to the extent there was any</p> <p>9 debate, you know, it was that.</p> <p>10 Q. Right.</p> <p>11 A. You know, over time, that, you know, strategy was</p> <p>12 beginning to be second-guessed in the sense of whether</p> <p>13 or not it was the right strategy.</p> <p>14 Q. Right.</p> <p>15 A. And it was in the nature of any evolutionary</p> <p>16 process. I cannot tell you there was a point in time</p> <p>17 when before -- it was not really a watershed here in the</p> <p>18 sense of before and after. It was just an evolutionary</p> <p>19 process.</p> <p>20 And you would find that people thinking a certain</p> <p>21 way yesterday, that way yesterday, they're thinking</p> <p>22 differently today.</p> <p>23 So there's not anyone I know who was always</p> <p>24 against or continued to be against or anything like</p> <p>25 that. It's just in the nature, if you will, of a</p>	<p>1 sentence.</p> <p>2 Q. I'm not asking you who continued to be of the</p> <p>3 view. I understand it evolved.</p> <p>4 A. Yes.</p> <p>5 Q. It started out one way and it gradually --</p> <p>6 A. Yes.</p> <p>7 Q. -- ended up somewhere else.</p> <p>8 A. Yes.</p> <p>9 Q. Right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Here's what I'm doing. You're asking the</p> <p>12 Federal Court to vacate --</p> <p>13 A. Yes.</p> <p>14 Q. -- the default judgment. Yes?</p> <p>15 A. Yes.</p> <p>16 Q. You understand that?</p> <p>17 A. Yes, yes.</p> <p>18 Q. You have put in a declaration under oath. And</p> <p>19 the purpose of this declaration is what? Do you know?</p> <p>20 The purpose of the declaration is in support of</p> <p>21 the motion to vacate the default.</p> <p>22 A. Yes.</p> <p>23 Q. You know that, right?</p> <p>24 A. So we give ourselves the chance to defend</p> <p>25 ourselves.</p>

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<p>1 Q. Yes. But the purpose of this declaration is to 2 vacate the default, yes? 3 A. To be able to defend ourselves. 4 Q. I am aware that this declaration is being filed 5 in support of a motion by the PA and the PLO to vacate 6 the default, okay? For whatever purpose. 7 A. For the purpose I stated. 8 Q. You understand it's to vacate a default, yes? 9 A. To defend ourselves. 10 Q. To vacate the default? 11 A. In order to defend ourselves. 12 Q. Okay. Fine. All right. You understand that we 13 oppose that, correct? 14 A. I do. 15 Q. Okay. And do you understand that I'm trying to 16 test the meaningfulness of your declaration? Do you 17 understand that? 18 A. I take its face value. 19 Q. I want to see if you can support any of these 20 statements. 21 A. Yes. 22 Q. That's what -- do you understand that? 23 A. Fine. 24 Q. Okay. Now, I'm asking you to support the 25 statement that, The importance of this was not fully</p>	<p>1 It is in that sense that I really meant this 2 declaratory statement to be. That is what it is 3 intended to say. That's the meaning of fully 4 appreciated, in that sense. Not in the sense of a 5 certain individual against or for. 6 Q. Okay. So you don't know of any person -- 7 A. No. I meant it precisely in the way I just 8 stated. 9 Q. So you don't know the name of any person that you 10 can say that person in the government did not appreciate 11 the importance of participating in -- you can't name 12 anybody. 13 Is that fair? 14 MR. ROCHON: You've got it already. 15 MR. WISTOW: I want it again. 16 Q. Is that fair? 17 A. As I said, you asked me what's the meaning of the 18 sentence. 19 MR. WISTOW: There's a reason for this. 20 A. You know, going back to your -- 21 MR. WISTOW: I'll withdraw the question. 22 A. Okay. 23 Q. I want to go to your letter. 24 A. Fine. 25 MR. ROCHON: That's -- just for the record,</p>
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<p>1 appreciated by the PA government as a whole. 2 And I'm asking you to name anybody -- anybody -- 3 who did not fully appreciate -- 4 MR. ROCHON: Counsel, do you want him to 5 support the statement or -- which of the two questions 6 do you want him to answer? You've asked him two again. 7 MR. WISTOW: Okay. 8 Q. I want you to support the statement by supplying 9 names of people. 10 MR. ROCHON: Counsel, you can't tell him how 11 to answer your questions. 12 MR. WISTOW: Here's what I'm going to do. 13 I'm just going to ask this. 14 Q. Do you know the names of anybody who did not 15 fully appreciate the importance of participating in the 16 legal process, as you've set forth here? The names of 17 anybody at any time. 18 A. I cannot really give you the names now. 19 Q. Okay. Fair enough. 20 A. I haven't finished. 21 What I can tell you is that, for a long time -- 22 this is really what this sentence is supposed to mean. 23 When I say, Was not fully appreciated, in the sense of 24 my feeling that probably this change of strategy should 25 have happened sooner.</p>	<p>1 that is No. 6. 2 Q. And this, indeed, is the letter referred to in 3 your declaration, is it not? 4 A. It is. 5 Q. Okay. Now, one of the things you said in your 6 declaration is your focus, when you sent this letter, 7 was as a Finance Minister. 8 A. Yes. 9 Q. Now, in the letter, you refer to some really 10 important issues, don't you? 11 A. That was the intention. 12 Q. Yes. And, for example, you point out, in the 13 very first paragraph, that you're writing for immediate 14 assistance, right? 15 A. Yes. 16 Q. Immediate meaning right away, yes? 17 A. Yes. Yes. That's what immediate means. 18 Q. Okay. And what you say there is -- in the first 19 paragraph, you're talking about, to use your words, A 20 serious obstacle to the continued effective 21 participation of the PNA -- 22 That's the Palestinian Authority, right? 23 A. Yes. 24 Q. What we've been calling the PA? 25 A. Yes.</p>

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<p>1 Q. -- in the Middle East peace process and the PNA's</p> <p>2 role as a strong and viable partner of the United States</p> <p>3 of America and the government of the State of Israel in</p> <p>4 that process.</p> <p>5 So that's a major major concern, isn't it?</p> <p>6 A. It is.</p> <p>7 Q. Very important?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And then you go on in the second paragraph</p> <p>10 and you say, Even now -- at the very end of the second</p> <p>11 paragraph -- Even now, the enforcement actions being</p> <p>12 taken by Plaintiffs, and the mere threat that Plaintiffs</p> <p>13 may be successful, are causing substantial harm to the</p> <p>14 Palestinian people and the PNA, and thereby threatening</p> <p>15 the peace process itself.</p> <p>16 Yes?</p> <p>17 A. Correct.</p> <p>18 Q. That goes beyond just money. We're talking about</p> <p>19 threatening the peace process, aren't we?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 A. You want me to explain?</p> <p>23 Q. No. I don't want you to explain.</p> <p>24 A. But I really would want to --</p> <p>25 Q. Did you believe -- did you believe that these</p>	<p>1 Now, it goes on to say, We believe that these</p> <p>2 separate actions are part of a concerted effort to</p> <p>3 impose crippling financial ability -- excuse me --</p> <p>4 crippling financial liability on the PNA, thereby</p> <p>5 undermining its ability to function as a partner in the</p> <p>6 peace process.</p> <p>7 Yes?</p> <p>8 A. That's what it states.</p> <p>9 Q. That's a very big deal, isn't it?</p> <p>10 A. The whole thing is a big deal.</p> <p>11 Q. Sorry?</p> <p>12 A. The whole thing is a big deal, which I</p> <p>13 consider --</p> <p>14 Q. It goes way beyond the money. We're talking</p> <p>15 about endangering the peace of the region, correct?</p> <p>16 A. Yes. But money is important in this.</p> <p>17 Q. Money is important. And peace is more important,</p> <p>18 isn't it?</p> <p>19 A. Yes. But there is a causal link between what I</p> <p>20 said here and the cause and the effect. It acts through</p> <p>21 the PA's capacity to continue to exist.</p> <p>22 Q. You believe --</p> <p>23 A. That's my view. That was my view then, and</p> <p>24 continues to be my view today.</p> <p>25 The PA, with this liability, you know, cannot</p>
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<p>1 enforcement actions threatened the peace process?</p> <p>2 A. In the following sense --</p> <p>3 Q. Go ahead.</p> <p>4 A. Did you want to ask me that, or --</p> <p>5 Q. No. Here's what I want to do. I want to ask the</p> <p>6 questions. If your counsel wants to follow up later</p> <p>7 with you, I don't have any problem.</p> <p>8 A. Yes.</p> <p>9 Q. I want to finish up in my allotted time, and I</p> <p>10 don't want to have to file motions saying that I ask a</p> <p>11 question and I get speeches. That's -- forgive me.</p> <p>12 MR. ROCHON: Counsel, counsel. You ask</p> <p>13 questions that invite them. So --</p> <p>14 MR. WISTOW: Well, I don't think so.</p> <p>15 Q. Now, you also go on to say, in the footnote on</p> <p>16 page 2 --</p> <p>17 A. Yes.</p> <p>18 Q. -- In addition to the Ungar case, the Plaintiffs'</p> <p>19 counsel -- that means the Plaintiffs' counsel in the</p> <p>20 Ungar case, right?</p> <p>21 A. Yes.</p> <p>22 Q. -- working with parties in Israel, has filed</p> <p>23 other actions in the United States seeking millions and</p> <p>24 millions of dollars from, inter alia, the PNA and the</p> <p>25 PLO. See, for example, Knox, et al. versus PLO.</p>	<p>1 function. And I regard the PA as a chief partner in</p> <p>2 this political process.</p> <p>3 And if the PA is disabled or otherwise unable to</p> <p>4 continue to exist and function, clearly the process is</p> <p>5 damaged irreparably.</p> <p>6 That's what I meant. That's my view.</p> <p>7 Q. I understand. I understand. I understand</p> <p>8 exactly what you're saying. So this is an</p> <p>9 extraordinarily important issue?</p> <p>10 A. It is.</p> <p>11 Q. Okay. Did you follow up on this letter?</p> <p>12 MR. ROCHON: Counsel, you've asked --</p> <p>13 MR. WISTOW: I'm pointing out to him now --</p> <p>14 he's indicated how important this is. I want to see if,</p> <p>15 with that recollection, see if his recollection is</p> <p>16 refreshed now that he focuses on this.</p> <p>17 A. Yes.</p> <p>18 Q. Does that refresh your recollection that you</p> <p>19 followed up?</p> <p>20 A. I'll tell you what I told you before.</p> <p>21 Q. Okay. Fair enough.</p> <p>22 A. There's no question in my mind that I did. In</p> <p>23 terms of specific occurrences of that --</p> <p>24 Q. Okay.</p> <p>25 A. -- is the stuff that I cannot really refer to</p>

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<p>1 specifically. But there is no question that it 2 happened. 3 Q. Okay. What happened? 4 A. That the follow-up happened. 5 Q. What follow-up? What did you do? 6 MR. ROCHON: Counsel -- 7 A. In the sense of asking where things stood, asking 8 where things stood on this very important matter. 9 MR. ROCHON: Counsel. Redundant. 10 MR. WISTOW: He brought it up. 11 MR. ROCHON: Because you asked him to. 12 MR. WISTOW: All right. You know what? 13 We'll leave the record the way it is. 14 A. Okay. Okay. 15 Q. Did you talk to President Abbas about this very 16 serious situation, now that you see the references to 17 undermining the whole peace process? 18 A. Yes. I have on numerous occasions. 19 Q. I'm talking about this letter. 20 A. This letter? He was the President, as he is 21 today, and I'm sure I did. 22 Q. Do you recollect it? 23 A. No. 24 Q. Okay. 25 A. This has been coming up way too often -- do you</p>	<p>1 Q. Did you read this letter before you signed it? 2 A. Yes. I mean what I'm saying to you, I obviously 3 read the letter before I signed it. 4 Q. Okay. 5 A. But I did not see it before -- you asked me the 6 question, did you see this letter before this 7 deposition. I haven't -- do you see what I'm saying? 8 Q. Can we agree that, when you wrote this letter -- 9 A. Yes. 10 Q. -- you knew that the First Circuit Court of 11 Appeals affirmed the judgment? 12 A. Yes. 13 Q. Yes? 14 A. Whatever is in this letter I knew, for sure. 15 Q. Do you remember this, or are you just saying? 16 A. Five years later? I'm certain I do not really 17 put my signature on something I do not believe to be 18 true. 19 Q. No doubt, none, that you knew that the First 20 Circuit had affirmed this? 21 A. The best that I could ascertain at the time. I 22 would not sign a letter that I did not believe that what 23 was in it was factual. 24 Q. Okay. So let me rephrase the question. 25 There is no doubt at all that you believed the</p>
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<p>1 recollect a specific time and place, all this and that. 2 In the same way I must have had something on a 3 week ago. I do not work, you know, that close on. You 4 ask me what it is you had on that day. I can't remember 5 in that sense. 6 But it is no natural for me to have told the 7 President on numerous occasions, you know, about this 8 case. 9 Q. About this letter? 10 A. About this letter too. 11 Q. Okay. So we'll accept that. 12 A. Okay. 13 Q. So you spoke to -- you're confident -- 14 A. Yes. 15 Q. -- that you talked to President Abbas about this 16 letter? 17 A. Yes. Absolutely. Yes. 18 Q. Okay. Now, when you wrote this letter, you were 19 aware -- this is June of 2005? 20 A. Okay. 21 Q. You were aware that the First Circuit Court of 22 Appeals affirmed the judgment, correct? 23 A. Now that I see the letter again, now that I see 24 the letter again, I understand that basically this was 25 basically final.</p>	<p>1 First Circuit had affirmed it? No doubt of that? 2 A. There was no doubt, at the time I signed this 3 letter, that there was anything in it that was factually 4 incorrect. 5 Q. So you believed it all, correct? 6 A. Yes. When I signed this letter, there was 7 nothing in it that I did not regard as factually 8 correct. 9 Q. Now, did you discuss with anyone what to do now 10 that there had been an affirmation by an Appeals Court? 11 A. In terms of follow-up you mean? In terms of 12 process? What do we do? 13 Q. Yes. We have a situation -- 14 A. Yes. 15 Q. -- where the peace process -- 16 A. Yes. 17 Q. -- the peace process is imperiled? 18 A. Yes. 19 Q. Did you have discussions with anybody about what 20 to do? 21 A. You know, when this happened, this was, as you 22 could tell -- as you could tell from the letter, this 23 appears to have been the first time the issue was raised 24 formally with the US administration in terms of, you 25 know, this being seen as a serious problem by us, you</p>

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<p>1 know, trying to, you know, find a way as to how to deal 2 with this very important, very serious issue. 3 And we're talking about the second half of June 4 of 2005. Two months later I was outside of government. 5 In the interim, there's no question that this was a 6 matter that was being pursued and followed up on. 7 Now, you know, going back to when the case was 8 filed -- 2000, 2001 -- I do not recall exactly -- 9 Q. 2000. 10 A. 2000. Okay. We're talking about five years up 11 to that point in time before we actually wrote the 12 letter, before we approached anyone on it. 13 And so what is a matter of few months time to 14 suggest that it was not actually being pursued or this 15 was not something that was taken seriously. 16 Q. Mr. Fayyad, I'm not suggesting anything. I'm 17 just asking questions. 18 My question was, did you discuss the situation 19 with anyone within government after you learned that the 20 First Circuit had affirmed the judgment. 21 A. No. 22 Q. What? 23 A. Like, you know, this other question that you 24 asked me before, I'm sure I did, in terms of what do we 25 do. The nature of things, what kind of discussion would</p>	<p>1 Q. What else did you do? 2 A. As I told you, you know, a process of 3 deliberation must have started then, as evidenced by the 4 fact that, in the course of the months that followed, 5 including in the course of 2006, there was, you know, 6 the beginning of definition of a new strategy as to how 7 to handle this and other cases, as evidenced by the fact 8 that, ultimately, there was, indeed, a shift in that 9 strategy. 10 Q. Okay. 11 A. Yes. 12 Q. Have you finished? 13 A. Yes. 14 Q. Okay. On June 18, 2005 -- 15 A. Yes. 16 Q. -- you, at least by that point, knew the Court of 17 Appeals had affirmed the judgment, correct? 18 A. Yes. 19 Q. Can you identify any person that you spoke with, 20 after this letter was given to Condoleezza Rice, to talk 21 with them about what do we do now? Anybody. 22 A. I talked to several people, you know, including 23 lawyers, including people not necessarily in government 24 either. 25 This is such a big deal. I meant every word, you</p>
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<p>1 you have against a backdrop of something like this? 2 Are we doing this right, is it really not time to 3 do something, what else can we do. You know, questions 4 like this. 5 Q. To whom? 6 A. People like I mentioned to you. 7 Q. What people? 8 A. People in government. 9 Q. What people? 10 A. Various Cabinet officers. 11 Q. Will you name them, please. 12 A. Minister of Foreign Affairs. 13 Q. What's his name? 14 A. At the time, I believe it was Nabil Sha'ath. 15 Q. You spoke to him? You remember? 16 A. I mean most likely, you know, he was there and we 17 had conversations. He was there at the meeting that 18 this letter was handed. And I had discussions with 19 various officials. Most likely he was one of them, for 20 sure. 21 The President himself for certain, on more than 22 one occasion. 23 Q. So what did you decide to do, other than write to 24 Condoleezza Rice? 25 A. Look into what it is that can be done.</p>	<p>1 know, in this letter when I wrote it, when I signed that 2 letter. And I still do believe, you know, it definitely 3 reflected my state of mind at the time I signed it. 4 Q. I'm sorry? 5 A. It reflected my state of mind at the time I 6 signed it in terms of the importance in which we viewed 7 this issue. So yes, it was definitely on our mind. We 8 were trying to find a way. 9 It's not, you know -- you have to understand, I 10 do not know if the PA was sued in the United States 11 before. I mean I don't know the history. 12 This is -- you know, the whole PA is new. It's 13 not like every day something like this happened and we 14 have been in existence forever and, you know, there's a 15 book that tells you what to do in situations like this. 16 So, basically, we're trying to find our way. 17 Q. Right. So you talked to people? 18 A. Yes. I talked to people. 19 Q. Who? 20 A. People around me at the time. 21 Q. Can you identify one? 22 A. I mentioned you some. The President. 23 Q. Okay. So you asked President Abbas -- 24 A. Yes. I mean -- 25 Q. Let me finish.</p>

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<p>1 A. Yes.</p> <p>2 Q. So you said you were talking with President Abbas</p> <p>3 about, We got a bigger problem now. We've got a</p> <p>4 judgment that was affirmed by Court of Appeals, right?</p> <p>5 MR. ROCHON: Objection, counsel.</p> <p>6 MR. WISTOW: Okay.</p> <p>7 MR. ROCHON: The leading is -- I know I've</p> <p>8 got a standing objection. And just because I'm --</p> <p>9 MR. WISTOW: You do. You do.</p> <p>10 MR. ROCHON: -- mentioning it now, it</p> <p>11 doesn't matter. But you're going way too far.</p> <p>12 MR. WISTOW: Well, I don't think so. You</p> <p>13 know, thank you for trying to preserve my deposition.</p> <p>14 Why don't you just let it go and these questions will be</p> <p>15 stricken.</p> <p>16 MR. ROCHON: I don't mind if you're aware of</p> <p>17 it.</p> <p>18 MR. WISTOW: Okay. I'm aware of it. I'm</p> <p>19 doing it at my risk.</p> <p>20 Q. So, in substance, in substance -- I'm not</p> <p>21 pretending that I know the exact words -- you said to</p> <p>22 President Abbas, Look, the First Circuit has affirmed</p> <p>23 this judgment. We need to do something.</p> <p>24 Is that a fair statement of the substance of what</p> <p>25 you would have said?</p>	<p>1 Q. So what you're saying is that it was such a huge</p> <p>2 issue, you would have done that, even though you don't</p> <p>3 remember a particular discussion with him.</p> <p>4 Is that fair?</p> <p>5 A. Very fair.</p> <p>6 Q. Okay. Do you have any idea what the result of</p> <p>7 that discussion was? Any idea?</p> <p>8 A. It often happens.</p> <p>9 Q. I'm sorry?</p> <p>10 A. Oftentimes it happens that, regardless how</p> <p>11 important issues are -- including a political matter --</p> <p>12 that those discussions would take place and ideas are</p> <p>13 put forward without conclusion in any given session,</p> <p>14 say, when they should discuss as to exactly, you know,</p> <p>15 what was going to happen afterwards.</p> <p>16 And that is -- I am really trying to project to</p> <p>17 you as close to the way I believed it happen as it did.</p> <p>18 You know, over time, there were discussions. All I know</p> <p>19 is we, in the nature of things, ended up on this new</p> <p>20 path.</p> <p>21 Q. Sometime in 2007?</p> <p>22 A. Yes. Or late 2006, early 2007. That's when I</p> <p>23 really got involved in this again.</p> <p>24 Q. Yes?</p> <p>25 A. Yes.</p>
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<p>1 A. You know, I cannot tell you that, you know, the</p> <p>2 words could have been anywhere near what you have</p> <p>3 suggested in your statement by way of specificity, First</p> <p>4 District Court having decided to do this, that or the</p> <p>5 other thing.</p> <p>6 But, you know, in substance, that this was a</p> <p>7 situation that required that it be dealt with --</p> <p>8 Q. Okay.</p> <p>9 A. -- without, you know, getting into various</p> <p>10 technical issues associated with it.</p> <p>11 You know, we knew there was an issue to be dealt</p> <p>12 with. And here is the President, and I had a</p> <p>13 conversation with him.</p> <p>14 Q. Okay. We know that you considered this to be a</p> <p>15 matter of such grave importance --</p> <p>16 A. Yes.</p> <p>17 Q. -- threatening regional peace. Maybe world</p> <p>18 peace, right?</p> <p>19 A. I'm waiting for the question.</p> <p>20 Q. I said, Right? I mean that was your state of</p> <p>21 mind at the time?</p> <p>22 A. That was my state of mind.</p> <p>23 Q. So that convinces you that you would have talked</p> <p>24 to President Abbas about it, correct?</p> <p>25 A. Yes. That's right.</p>	<p>1 Q. So we're talking about a period of almost three</p> <p>2 years?</p> <p>3 A. Little less. Anyway, if you take June 2007 as</p> <p>4 starting point --</p> <p>5 MR. ROCHON: Excuse me.</p> <p>6 Q. No. Take --</p> <p>7 A. June 2007. I'm sorry. June 2005.</p> <p>8 Q. No.</p> <p>9 A. If you take June 2005 as --</p> <p>10 Q. No. We'll take March 31, 2005.</p> <p>11 Well, let me ask you this. When did you learn</p> <p>12 about the decision of March 31?</p> <p>13 A. It must have been, you know, during that time</p> <p>14 period, between the time I wrote the letter and the time</p> <p>15 it happened.</p> <p>16 Q. Well, I know that.</p> <p>17 A. I mean this is -- we're talking about a couple of</p> <p>18 months here between the time, you know --</p> <p>19 Q. Do you remember learning of it?</p> <p>20 A. Obviously. That's why --</p> <p>21 Q. Do you remember learning -- in other words, did</p> <p>22 you get a phone call where you were shocked?</p> <p>23 Can you remember anything about your reaction</p> <p>24 when you learned about it?</p> <p>25 MR. ROCHON: Counsel, four questions.</p>

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<p>1 MR. WISTOW: All right. Fine. I'll take 2 the risk. 3 A. No, sir. I don't remember. 4 MR. ROCHON: Counsel, we'll move on. We 5 don't have to take the risk. He actually gets to get 6 just one at a time even if you're willing to take the 7 risk. 8 MR. WISTOW: Okay. I'll do it one at a 9 time. I'll do it one at time. 10 Q. Do you remember your reaction when you learned of 11 the fact that an Appeals Court has sustained this 12 judgment? 13 A. You know, I do not know exactly how I reacted. 14 All I know is that I viewed this -- and I continue to 15 view it -- as a very serious matter. 16 Q. Okay. Other than President -- 17 A. I am this way. 18 Q. You're what? 19 A. I am this way. 20 Q. What way? 21 A. You know, I'm just -- I do not just jump up and 22 down whenever something happens, however important it 23 is. 24 I took it. I understood there was an issue to be 25 dealt with, took that position, and since then, I've</p>	<p>1 Q. Who told you this? 2 A. You know, people who were handling this at the 3 time. Probably the head of the President's bureau. 4 Q. What's his name? 5 A. At the time, Rafiq Al-Husseini. 6 Q. What? 7 A. Rafiq Al-Husseini. 8 Q. Can you spell that? 9 A. R A F I Q. That's his first name. Al-Husseini. 10 A L - H U S S E I N I. 11 Q. Okay. And where is he now? 12 A. He's not in the office anymore. 13 Q. Where is he? 14 A. I don't know if he's in the country now as we 15 speak. 16 Q. Okay. So are you telling me that this guy, 17 Husseni -- am I pronouncing it right? 18 A. Ycs. 19 Q. -- he told you they were trying to find lawyers 20 in 2006? 21 A. They were -- you know -- 22 Q. Did he tell you that? 23 A. If you'd just give me a second to try to answer. 24 Q. Okay. 25 A. All I know is that he was the President's office</p>
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<p>1 been working on it. 2 Q. Okay. When was the first time -- 3 A. Except for that time period when I wasn't in the 4 government. 5 Q. Okay. When was the first time it was dealt with 6 after you wrote this letter? 7 A. At various discussions leading to the time when 8 we adopted, eventually, this new strategy. 9 Q. When was any action taken to implement the new 10 strategy? 11 A. You know, I can't tell you. There was a period 12 of time subsequently when the PA was vigorously seeking 13 legal representation on this matter, without much 14 success, in the course of 2006. 15 This came to my attention after I rejoined the 16 government in March of 2007. 17 Q. Okay. You're telling me now the PA was trying to 18 get -- 19 A. Yes. 20 Q. -- new lawyers in 2006? 21 A. Yes. Yes. 22 Q. Couldn't find anybody? 23 A. I understand that they were having difficulties. 24 Q. Who did they contact? 25 A. I don't know.</p>	<p>1 director at the time, and he had some people work for 2 him who were trying to help find legal representation in 3 the United States at the time. 4 Q. He told you that? 5 A. I can't tell you for sure if he did himself tell 6 me that, but I learned that that was actually what was 7 happening. 8 Q. When did you learn that? 9 A. In early 2007, around the time I joined the 10 government, because I know that I personally was seized 11 with this immediately after I joined the government. 12 And I know that, as early as April, a little 13 about a month after the formation of the new government, 14 you know, we had legal representation. 15 Q. So you tried to find out what had gone on 16 before -- 17 A. Yes. 18 Q. -- correct? And you found out that really 19 nothing -- 20 A. Not quite nothing. 21 Q. All right. I'll withdraw that. Let me try it 22 again. 23 A. Yes. 24 Q. Let's focus on the other lawyers that -- 25 A. Yes.</p>

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<p>1 Q. -- were contacted. Hussein told you that other 2 lawyers had been contacted and refused the case? 3 Is that what he said? 4 A. I do not know if Rafiq Al-Husseini himself told 5 me this. 6 All I know is that he, and people working for 7 him, were in the process of finding legal representation 8 in the United States in connection with these cases in 9 the course of 2006. 10 Now, exactly when in 2006 I cannot tell you, but 11 I know -- all I know is that I'm aware of the fact that 12 the PA was actively seeking legal representation within 13 that time frame. 14 Q. How do you know that? 15 A. It's not exactly true that nothing was happening. 16 Q. How do you know that? 17 A. I became Finance Minister again. 18 Q. I know you had to know as Finance Minister. 19 A. Yes. 20 Q. You either saw a piece of paper or somebody told 21 you, right? 22 A. Yes. Something -- I don't know if somebody gave 23 me a piece of paper. Somebody must have told me this. 24 I asked because, you know, it's something that I felt we 25 really need to deal with.</p>	<p>1 which I felt they were dealing with it, you know, when I 2 took over as Minister of Finance again, and the 3 seriousness with which they were talking to me about 4 it -- I mean, for example, somebody like 5 Mr. Al-Husseini -- I figured that this was for sure that 6 they were really serious about this. 7 And it is just that that they got to that point 8 in time having not succeeded in finding suitable legal 9 representation. That's all. 10 Q. Did you ask him what efforts they made? 11 A. No. I don't remember, you know, if I asked or 12 they told me specifically what they did. 13 But I got the distinct sense that they were 14 really serious about. They were really desperate. They 15 really wanted to do that. 16 Q. And did you get a distinct sense of how long they 17 had been trying? 18 A. I'm guessing now. I mean I just don't know for 19 sure. But it cannot be a matter of just a few weeks, in 20 the way that I now remember it. 21 Probably more like a few months. 22 Q. Maybe a few months? Maybe a month or two? You 23 don't know, do you? 24 A. I really don't know for sure. 25 Q. All right. And you don't know who's telling you</p>
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<p>1 You know, in my position as Minister of Finance 2 then, it's something that really we were interested in. 3 And you ask about it and somebody tells you. It doesn't 4 really matter. 5 I ended up leading the effort actually to find 6 legal representation for us. I did it against the 7 backdrop of knowing there was an effort by the PA to do 8 so, and I just continued with it. 9 Q. Okay. Did you find out any details about the 10 effort? Anything? 11 A. That it was serious and it was being made. 12 Q. But did you find out any details whatever? For 13 example, was one law firm contacted? Two? Three? 14 Five? Ten? 15 A. No. What I recall about it is that there was a 16 serious attempt made at finding legal representation, 17 without much success. 18 Q. Okay. How do you know it was serious? 19 A. Well, in the way, you know, this issue was talked 20 about. 21 Q. Well, what did they do to find legal counsel? 22 You said it was serious. 23 A. They must have -- I mean I don't know exactly 24 what they did. 25 All I know is that, given basically the manner in</p>	<p>1 this, correct? 2 A. Most likely -- 3 Q. Is it -- is that correct? 4 A. Most likely Hussein. Most likely. 5 Q. But you don't remember it? 6 A. I don't remember for sure. 7 Q. Okay. Now, do you remember who, if anybody, told 8 Hussein to find new lawyers? It wasn't you, right? 9 A. No. I wasn't in the government at the time. 10 Q. Right. So it wasn't you? 11 A. No. 12 Q. Who was it who told Hussein to do it? 13 A. It was probably the President. 14 Q. It probably was -- 15 A. Probably. Probably. He worked for the 16 President. 17 Q. So if I wanted to know the answer, I'd have to 18 ask President Abbas? 19 A. I could ask him for you. But I suppose, you 20 know, that Rafiq would not have done it on his own. I 21 mean he was the Director of the President's office. 22 Q. Well, what was the guy's title? Hussein? 23 A. Director of the President's office. 24 Q. Okay. Could he have gotten instructions from the 25 Finance Minister at the time?</p>

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<p>1 A. You know, the Director of the President's office 2 does not -- I wish he did -- take instructions from the 3 Minister of Finance. 4 Q. So what you're telling me is this was somebody 5 who really would not respond to orders from you? 6 A. He doesn't work for the Minister of Finance. He 7 wouldn't. We talked. We talked. 8 Q. So you're telling me -- 9 A. There is no line of authority between the 10 Minister of Finance and the Director of the President's 11 office. 12 Q. So if Hussein did this, it would be on 13 instructions of Abbas? 14 A. Probably. 15 Q. Okay. So Abbas would know when and where? 16 A. You know -- 17 Q. Well, maybe he doesn't remember either. But the 18 only way we'd know is to ask him. All right. 19 A. I don't know if -- 20 MR. ROCHON: There's no question pending, 21 Mr. Prime Minister. 22 THE WITNESS: Pardon? 23 MR. ROCHON: There's no question pending. 24 THE WITNESS: Okay. 25 Q. How hard was it for you to find a lawyer? What</p>	<p>1 It took a while to really put this government 2 together, the one that I joined actually in March. 3 There was a lot of discussion on it, and it became known 4 well before it actually happened I was going to be 5 rejoining it as Minister of Finance. 6 So during that period before the formation of the 7 government, it is conceivable that this conversation 8 took place before, before March actually. 9 Q. Okay. And as we said before -- 10 A. Yes. 11 Q. -- even before putting the government together, 12 you were mindful this was a very important issue? 13 A. Oh, yes. Yes. 14 Q. Okay. So it would have been important to you to 15 know precisely what had taken place up to then, wouldn't 16 it? 17 A. Yes, yes. 18 Q. Okay. And you've told me everything you can 19 recollect at this point, correct? 20 A. As best as I can. 21 Q. Okay. Now, when you were Finance Minister and 22 wrote the letter to Condoleezza Rice -- 23 A. Yes. 24 Q. -- you determined -- I shouldn't say you 25 determined.</p>
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<p>1 did you have to do? 2 A. Basically, I worked with these guys. 3 Q. With what? 4 A. With the people I mentioned to you. 5 Q. What people? 6 A. Rafiq Al-Husseini and his team, in terms of the 7 search that they had made. 8 And I remember, you know, taking a trip to the 9 United States, in April of 2007, when we had discussions 10 with lawyers whom we ended up retaining. 11 Q. Now, you became -- you came back into government 12 when? 13 A. March 2007. 14 Q. Okay. And so this conversation with Hussein -- 15 if that's who it was -- had to be between March 2007 and 16 April of 2007, correct? 17 A. Between March 2007? 18 Q. Yes. And April? 19 A. April of 2007? 20 Q. Yes. 21 A. What about that? 22 Q. The conversation, if any, with Hussein had to be 23 in that period, correct? 24 A. Yes. Probably right. Fair guess, yes. Maybe 25 before because -- let me really backtrack a little bit.</p>	<p>1 You knew, at the time that you wrote it, that the 2 case had been lost in the Court of Appeals, right? 3 MR. ROCHON: Counsel. Four times. 4 MR. WISTOW: I'm trying to bring it -- it's 5 preliminary to where we're going. Okay? 6 Q. You knew that? 7 A. I must have. 8 Q. Yes. All right. 9 Did you -- do you remember anything about an 10 attempt to go to the United States Supreme Court, in the 11 period before you left government? 12 A. That could have come up. I can't be sure right 13 now, but it could have come up. 14 Q. I understand it could have. Do you remember 15 anything about it? 16 A. If it did -- see, I'm trying to remember, piece 17 things together now, because I know that, during that 18 period of time, there was an attempt at collecting or 19 opposing that judgment by, as a matter of fact, taking 20 remedy in Israel. 21 And maybe, in the course of that period -- I 22 really do not know for sure now. I mean there were lots 23 of things, lots of developments -- that issue came up. 24 But I can't really be sure now. I cannot really 25 tell you I remember this specifically.</p>

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<p>1 Q. Okay. Bottom line is maybe you knew about the 2 possible appeal to the Supreme Court, maybe not. 3 Is that what we're saying? 4 A. Or thinking about it. I do not know. Thinking 5 about going to Supreme Court. Whether or not that 6 actually happened, I do not know. 7 Q. Did you ever authorize anybody to do that? 8 A. I don't recall. 9 Q. Okay. I'm going to talk my lessons from 10 Mr. Rochon. 11 MR. ROCHON: Go off the record for a bit? 12 MR. WISTOW: Yes. 13 THE VIDEOGRAPHER: Going off the record at 14 8:18. 15 (Short recess taken.) 16 THE VIDEOGRAPHER: Going on record at 8:27. 17 Q. I want to explore with you a little more the 18 letter that you wrote to Condoleezza Rice on June 18, 19 2005. 20 A. Okay. 21 Q. Now, you indicated to Ms. Rice that the 22 Plaintiffs in the Ungar case were sending out misleading 23 notices? 24 MR. ROCHON: Do you have a page first? 25 MR. WISTOW: Yes. Page 3.</p>	<p>1 Q. Okay. So what you believed was happening is the 2 Plaintiffs were using the judgment they obtained in 3 court improperly, correct? 4 A. Can you say this again. I was looking here. 5 Yes. 6 Q. What you were trying to tell Condoleezza Rice -- 7 A. Yes. 8 Q. -- is that you believed that the Plaintiffs had 9 obtained an injunction from the Court and were using it 10 improperly, correct? 11 A. That -- yes. I mean, basically, in the sense of 12 it referring to entities that are independent of the PA 13 or the PLO, that I felt then -- and I feel now -- 14 basically that, you know, that the enforcement action 15 that was being pursued by the Plaintiffs exceeded what 16 the remedy would be in terms of, you know, where to 17 collect and what is collectible. 18 Q. Right. 19 A. Yes. Yes. 20 Q. I think we're saying the same thing. 21 A. Okay. That's fine. 22 Q. That they had gone to court, obtained an 23 injunction from the court -- 24 A. Yes. 25 Q. -- which was specific. And, in your mind, the</p>
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<p>1 Q. The second paragraph from the bottom. Do you see 2 that? 3 A. Second paragraph? 4 Q. Yes. 5 MR. ROCHON: Do you mean -- that's the one 6 that starts, As a result of receiving? 7 MR. WISTOW: No. In addition. 8 THE WITNESS: In addition. 9 (Witness peruses document.) 10 Q. Do you see that? 11 A. Yes. I see it, yes. 12 Q. Okay. Do you understand what that refers to? 13 A. Yes. 14 Q. Could you explain it to me? 15 A. In the sense of, for example, entities like the 16 Pension Fund and the PMA. 17 Q. And, in fact, if you go to the top of the page -- 18 A. Yes. 19 Q. -- the letter says, Despite the specificity of 20 the District Court's orders, however, Plaintiffs' 21 counsel prepared a Notice of Injunction (the Notice) in 22 which they broadly assert that the injunction -- and it 23 goes on to quote the Notice. 24 Do you see that? 25 A. I see it, yes.</p>	<p>1 Plaintiffs were using it in a much too broad way -- 2 A. Yes. 3 Q. -- and were sending it out naming all kinds of 4 inappropriate entities? 5 A. That's what I meant to say. 6 Q. Right. Okay. 7 A. But, if I may, in the sense that I have just 8 described, in the sense of those entities being 9 independent -- 10 Q. Yes? 11 A. -- of the PA and the PLO. So, therefore, my view 12 is that they should not be, you know, pursued in 13 collection. 14 Q. Yes. I understand. 15 A. Okay. 16 Q. You thought -- do you -- are you familiar with 17 the English expression "fast one"? You felt that the 18 Plaintiffs were pulling a "fast one"? 19 If you're not familiar with the expression, they 20 were doing something they shouldn't be doing, right? 21 A. That's a better way. I'd rather put it that way. 22 Q. Okay. It was unfair, inappropriate, and misusing 23 the injunction? 24 A. Going beyond, you know, what could be pursued, is 25 how I'd put it.</p>

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<p>1 Q. They were misusing the injunction, in your mind?</p> <p>2 MR. ROCHON: Counsel. Objection. He's</p> <p>3 answered.</p> <p>4 MR. WISTOW: Can I get a yes?</p> <p>5 MR. ROCHON: You can't tell him what to say.</p> <p>6 MR. WISTOW: Can I get a no? Can I get an I</p> <p>7 don't know?</p> <p>8 MR. ROCHON: You got an answer.</p> <p>9 Q. Did you believe they were misusing the</p> <p>10 injunction?</p> <p>11 A. All I know is that they were acting in a manner</p> <p>12 that went beyond what would be pursued in this action.</p> <p>13 I'll just say this the same way every time I've asked.</p> <p>14 Q. Okay.</p> <p>15 A. That's just the way I go about doing things. I</p> <p>16 just don't tend to really add too much color one way or</p> <p>17 the other.</p> <p>18 Q. Okay. They were doing something which you</p> <p>19 believed they had no right to do. Is that fair?</p> <p>20 MR. ROCHON: Counsel, you --</p> <p>21 MR. WISTOW: No, no. I do it my way. I</p> <p>22 don't know what they do in Washington. This is how I've</p> <p>23 been making a living for a while, and I'm going to</p> <p>24 persist.</p> <p>25 MR. ROCHON: I understand. But you're</p>	<p>1 MR. WISTOW: Okay.</p> <p>2 Q. The PLO and the PA's lawyers, did you think of</p> <p>3 going back to the District Court in Rhode Island and</p> <p>4 making it aware of this perceived abuse of its</p> <p>5 injunction?</p> <p>6 Did you?</p> <p>7 A. You know, at the time, you know, those cases were</p> <p>8 not being pursued in the same way that they are being</p> <p>9 pursued now.</p> <p>10 As I told you, this letter essentially was a</p> <p>11 beginning of our formal involvement in the process in</p> <p>12 the sense of really trying to find a way as to how to</p> <p>13 best deal with it.</p> <p>14 Q. Have you finished your answer?</p> <p>15 A. I have.</p> <p>16 Q. Okay. You wrote this letter?</p> <p>17 A. Yes.</p> <p>18 Q. I'm asking you, did you consider going back to</p> <p>19 the District Court and saying that its injunction was</p> <p>20 being misused.</p> <p>21 That's all I'm asking.</p> <p>22 A. I don't know if I considered a certain, you know,</p> <p>23 course of action, considered specifically or precisely</p> <p>24 what to do, as much as I believe I was in the mode of</p> <p>25 really trying to find out how best to deal with, you</p>
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<p>1 trying to make him say a particular word that you want.</p> <p>2 MR. WISTOW: That's exactly what I'm trying</p> <p>3 to do. That's exactly right. He's an adverse witness.</p> <p>4 MR. ROCHON: He's not. But, counsel --</p> <p>5 MR. WISTOW: I didn't say hostile. I said</p> <p>6 adverse. I have a right to try to do it the way I'd</p> <p>7 like to if I can possibly.</p> <p>8 MR. ROCHON: Go ahead.</p> <p>9 Q. Can we agree to this, that you felt that they</p> <p>10 were using the injunction beyond what they were entitled</p> <p>11 to do with it.</p> <p>12 Is that fair?</p> <p>13 A. I felt that they were going beyond what could</p> <p>14 have been pursued.</p> <p>15 Q. With the injunction?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Did you consider having your lawyers go</p> <p>18 back to the District Court in Rhode Island and say</p> <p>19 they're abusing the court's injunction?</p> <p>20 Did you think about that?</p> <p>21 MR. ROCHON: Objection. Assumes a fact not</p> <p>22 in evidence.</p> <p>23 MR. WISTOW: What?</p> <p>24 MR. ROCHON: His lawyers. You haven't</p> <p>25 established --</p>	<p>1 know, this and other cases.</p> <p>2 Q. Well, didn't you talk to your lawyers at the time</p> <p>3 about this?</p> <p>4 A. I was not really in direct communication with the</p> <p>5 lawyers on this or other cases.</p> <p>6 Q. But you could have been?</p> <p>7 A. You know, the issue, as I told you, in this</p> <p>8 particular case became one of immediate relevance to me,</p> <p>9 in my capacity as Minister of Finance, only after</p> <p>10 essentially, effectively, enforcement action began in</p> <p>11 ways that involved freezing assets and other aspects of</p> <p>12 actions taken in a manner that very much affected the</p> <p>13 way we did business.</p> <p>14 And so, therefore, you know, just really</p> <p>15 basically trying to find out -- find a way as to how</p> <p>16 best to deal with this.</p> <p>17 I cannot tell you exactly what sort of measures,</p> <p>18 you know, are contemplated, are considered, actions that</p> <p>19 we thought we should take, other than, at the time,</p> <p>20 trying to really find a way, you know, considering the</p> <p>21 line of defense that was adopted as strategy by the</p> <p>22 PA/PLO's lawyers in the previous period.</p> <p>23 That's all.</p> <p>24 Q. Okay. We've already established that this was</p> <p>25 not only a matter of a big financial problem, but</p>

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<p>1 threatened regional -- perhaps world -- peace.</p> <p>2 We've already established that, have we not?</p> <p>3 A. Because it was a big financial problem. That's</p> <p>4 what I would add. Because it was a big financial</p> <p>5 problem, a very serious financial problem. That's the</p> <p>6 causal link.</p> <p>7 Q. Okay.</p> <p>8 A. That's the channel of influence, if you will.</p> <p>9 Q. All right. But you were saying that, because of</p> <p>10 this, the Palestinian government could fall down --</p> <p>11 A. Yes.</p> <p>12 Q. -- collapse, which would threaten regional and</p> <p>13 world peace.</p> <p>14 Yes? Didn't you say that?</p> <p>15 A. I said that, and I --</p> <p>16 Q. Did you believe it?</p> <p>17 A. I did.</p> <p>18 Q. Okay. Now, there's more financial problems being</p> <p>19 caused by this injunction, correct?</p> <p>20 A. What do you mean?</p> <p>21 Q. You're telling Condoleezza Rice about the</p> <p>22 problems with this injunction, aren't you?</p> <p>23 A. Yes, I am.</p> <p>24 Q. Okay.</p> <p>25 A. Yes.</p>	<p>1 dozen times.</p> <p>2 MR. WISTOW: I'd like to get it all in one</p> <p>3 place, kind of bookend it.</p> <p>4 I'm sorry I'm amusing you.</p> <p>5 A. What I said --</p> <p>6 Q. Can you please --</p> <p>7 A. What I said --</p> <p>8 Q. Yes.</p> <p>9 A. What I said was it threatened to grossly</p> <p>10 undermine the capacity of the PA to function. That's</p> <p>11 what I just told you now.</p> <p>12 Q. To operate as a functioning government?</p> <p>13 A. And what you actually recited from the letter,</p> <p>14 which I wrote in June of 2005 in English, is exactly</p> <p>15 identical then to what I just said to you right now.</p> <p>16 Q. I accept that.</p> <p>17 A. That impresses me.</p> <p>18 Q. I accept that. I salute you. I salute you, sir.</p> <p>19 A. Thank you.</p> <p>20 Q. I want to take it a step further.</p> <p>21 A. Okay.</p> <p>22 Q. So with this threat, did you consider --</p> <p>23 A. Yes.</p> <p>24 Q. -- going to the Rhode Island court and saying</p> <p>25 they're abusing the injunction?</p>
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<p>1 Q. So that injunction is also affecting the</p> <p>2 finances, isn't it?</p> <p>3 A. Of course.</p> <p>4 Q. Okay.</p> <p>5 A. In the sense of it having led to, resulted in,</p> <p>6 freezing of our assets.</p> <p>7 Q. Exactly.</p> <p>8 A. Definitely.</p> <p>9 Q. Exactly. Threatening the financial collapse of</p> <p>10 the PA. Yes?</p> <p>11 A. I don't know. Grossly undermining the PA's</p> <p>12 capacity to function. That was how I would put it.</p> <p>13 Q. Well, let's see how you put it.</p> <p>14 If Plaintiffs' efforts prove successful, they</p> <p>15 could completely undermine the PNA's ability to continue</p> <p>16 to operate as a functioning government.</p> <p>17 Correct?</p> <p>18 A. Amazing. I mean I just said to you now what I</p> <p>19 said in the letter, and really I did not look at the</p> <p>20 sentence now.</p> <p>21 Q. Okay. Because you really believe this?</p> <p>22 A. That's my state of mind.</p> <p>23 Q. Right. Your state of mind was this could cause</p> <p>24 the -- effectively the collapse of the PNA, correct?</p> <p>25 MR. ROCHON: Counsel, you've asked it a</p>	<p>1 Can you answer that?</p> <p>2 A. I think I did.</p> <p>3 Q. I don't think you did, with all due respect.</p> <p>4 A. I told you, you know, we were at the time -- we</p> <p>5 had not, at the time, gotten to the point of actively</p> <p>6 pursuing those cases in the sense of defending ourselves</p> <p>7 against every motion or injunction.</p> <p>8 It was the over-all strategy. It was just</p> <p>9 basically something that had just happened in the sense</p> <p>10 of this ruling, this judgment, if you will, and the</p> <p>11 entering of final judgment of a certain amount, freezing</p> <p>12 of assets.</p> <p>13 And so, basically, you ask what is it that got</p> <p>14 you there in the first instance. The inadequacy of the</p> <p>15 defense on the grounds of jurisdiction or sovereign</p> <p>16 immunity, that's what we were looking at at the time, or</p> <p>17 that's what I recall was on my mind, not that particular</p> <p>18 injunction.</p> <p>19 In other words, you know, what we were doing then</p> <p>20 was we were taking it step by step, action by action,</p> <p>21 motion by motion. It was just a different paradigm</p> <p>22 altogether.</p> <p>23 You know, the lawyers showed up and said, Well,</p> <p>24 no jurisdiction. And so, basically, that's just the way</p> <p>25 it was.</p>

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<p>1 Q. But you had lost that in the Court of Appeals?</p> <p>2 A. I know. We were just --</p> <p>3 MR. ROCHON: Counsel.</p> <p>4 A. We were just in the midst of trying to deal with</p> <p>5 it. That's basically what I'm am trying to talk to you</p> <p>6 about.</p> <p>7 Q. This is June 2005?</p> <p>8 A. It is June of 2005, yes.</p> <p>9 Q. Now, in June of 2005, you have a situation that</p> <p>10 you claimed to Condoleezza Rice is threatening to</p> <p>11 completely undermine the PNA's ability to continue to</p> <p>12 operate as a functioning government?</p> <p>13 A. Yes, yes.</p> <p>14 Q. Correct?</p> <p>15 A. Correct.</p> <p>16 Q. And you really believed that?</p> <p>17 A. I did.</p> <p>18 Q. Okay. Whatever else you were doing, did you give</p> <p>19 any consideration whatever to going back to Judge</p> <p>20 Lagueux and explaining to him that they were misusing</p> <p>21 the injunction?</p> <p>22 Did you consider it?</p> <p>23 A. You know, I never said -- and I'm not here to</p> <p>24 suggest -- that I'm actually, or I ever, micro-managed</p> <p>25 this process in the sense of me, you know, deciding</p>	<p>1 micro-managing it now.</p> <p>2 Q. So who was managing it in June of 2005?</p> <p>3 A. It was -- as I told you, the issue became one</p> <p>4 that preoccupied me definitely when I basically found</p> <p>5 myself having to deal with the financial consequence of</p> <p>6 this.</p> <p>7 Q. Listen to me.</p> <p>8 MR. ROCHON: Counsel, don't tell the Prime</p> <p>9 Minister to listen to you. Just because you don't get</p> <p>10 the answer you want, don't tell him to listen to you.</p> <p>11 He's been listening to you patiently for four hours.</p> <p>12 MR. WISTOW: All right.</p> <p>13 Q. Forgive me. I apologize.</p> <p>14 You indicated you didn't want to micro-manage</p> <p>15 this problem, correct?</p> <p>16 A. I didn't. And I'm not doing it now either.</p> <p>17 Q. Okay. Fair enough.</p> <p>18 A. It's not because I didn't want -- this is just</p> <p>19 basically how I do business, whether this case or other</p> <p>20 cases. I'm not a lawyer. That's what we have lawyers</p> <p>21 for.</p> <p>22 Q. I'm not being critical. I'm just asking the</p> <p>23 question.</p> <p>24 A. Okay.</p> <p>25 Q. Okay. Who was managing the situation, this</p>
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<p>1 every step of this litigation. That's what we have</p> <p>2 lawyers for now, thankfully, and we're pursuing this</p> <p>3 strategy.</p> <p>4 We were not doing it this way then. And even</p> <p>5 today, with active, you know, counsel on our behalf, it</p> <p>6 isn't the case that I just sit and decide in a</p> <p>7 micro-management sense the steps that need to be taken.</p> <p>8 Q. Okay.</p> <p>9 A. I honestly don't.</p> <p>10 Q. So, in June of 2005 --</p> <p>11 A. If it's true today, it was a lot more true then.</p> <p>12 Q. In June of 2005, you were content to leave this</p> <p>13 issue in the hands of your then lawyers.</p> <p>14 Is that what you're saying?</p> <p>15 MR. ROCHON: Objection to form.</p> <p>16 A. I was not really involved in it then in the same</p> <p>17 way that I'm involved in it today.</p> <p>18 Q. I'm not asking you to compare the two.</p> <p>19 I'm saying, in June of 2005 --</p> <p>20 A. Yes.</p> <p>21 Q. -- when you were telling Condoleezza Rice that</p> <p>22 this injunction threatened to collapse the PNA, you were</p> <p>23 content not to micro-manage it.</p> <p>24 That was your expression, correct?</p> <p>25 A. Yes. I never micro-managed it then, and I'm not</p>	<p>1 litigation, in June of 2005?</p> <p>2 A. I do not know if I can really tell you there was</p> <p>3 one individual or portfolio that was solely in charge of</p> <p>4 this operation. I really can't.</p> <p>5 Q. That's not what I'm asking you. I'm asking if</p> <p>6 you know anybody who was involved in the management of</p> <p>7 it. Anybody.</p> <p>8 MR. ROCHON: When you say "it," counsel, the</p> <p>9 litigation?</p> <p>10 MR. WISTOW: The litigation. Yes.</p> <p>11 Q. In June of 2005.</p> <p>12 A. I believe it was just counsel doing it, you know,</p> <p>13 at the time, on the basis of the strategy that they</p> <p>14 began, and basically continuing on with it.</p> <p>15 Q. So did you try to determine if there was anybody</p> <p>16 else in the government that was involved in this?</p> <p>17 A. All I remember is when I actually, you know,</p> <p>18 started to deal with it. I did not really, at the time,</p> <p>19 feel I was intruding on somebody's turf at the time.</p> <p>20 Q. I don't understand that. In June of 2005 --</p> <p>21 A. Yes.</p> <p>22 Q. -- you were not managing this litigation?</p> <p>23 A. No, I wasn't.</p> <p>24 Q. Okay. Did you believe somebody else in the</p> <p>25 government was, or some kind of combination of people in</p>

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<p>1 the government?</p> <p>2 A. I had assumed that to be the case. But it looked</p> <p>3 to me to be more, you know, the lawyers doing it on an</p> <p>4 on-going inertia basis, if you will, on the basis of</p> <p>5 strategy that they adopted early on.</p> <p>6 Q. Okay. In June of 2005 then, you assumed somebody</p> <p>7 else in the government was managing it?</p> <p>8 That is what you said?</p> <p>9 A. June 2005?</p> <p>10 Q. Yes. When you wrote this letter.</p> <p>11 A. As I told you, in the way that I described to</p> <p>12 you.</p> <p>13 You know, again, we're really talking about a</p> <p>14 fairly nascent authority --</p> <p>15 Q. What?</p> <p>16 A. Young authority, new authority, without well-</p> <p>17 established systems of governance in various matters.</p> <p>18 I mean it's not like, you know, an authority</p> <p>19 that's been in existence forever, with everybody knowing</p> <p>20 what they're supposed to be doing.</p> <p>21 Q. Did you assume someone was managing it --</p> <p>22 A. Yes.</p> <p>23 Q. -- or did you assume someone wasn't?</p> <p>24 That's all I'm asking.</p> <p>25 A. I assumed it was being managed in the way that I</p>	<p>1 actively managing the case on a day-to-day basis.</p> <p>2 Q. Okay?</p> <p>3 A. For the reasons I mentioned. So --</p> <p>4 Q. Did you assume there was?</p> <p>5 MR. ROCHON: Counsel. You just asked it.</p> <p>6 MR. WISTOW: No. He said -- he said, I</p> <p>7 didn't know. I'm asking, did you believe there was</p> <p>8 somebody.</p> <p>9 He said he didn't know. I'm now asking him</p> <p>10 did he believe somebody was managing it.</p> <p>11 A. You know, I don't know if I really went through</p> <p>12 this thinking, assuming anything.</p> <p>13 All I know is, when I found out about this, and</p> <p>14 it came to my knowledge this was what was involved, this</p> <p>15 was what a thing that was a priority issue for me, I</p> <p>16 started to act on it.</p> <p>17 Basically, that's what I'm trying to tell you.</p> <p>18 Q. Okay. What I'm trying to ask you, when you</p> <p>19 started to act, you wrote a letter?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And that's the last thing before you left</p> <p>22 government, right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Now, what I'm trying to get at though, is</p> <p>25 did you believe that somebody else would be taking care</p>
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<p>1 described -- namely, on the basis of strategy which was</p> <p>2 based on the notion that there was no jurisdiction in</p> <p>3 this particular case.</p> <p>4 And when a deposition is taken, this does not</p> <p>5 need day-to-day maintenance. It's a paradigm that says</p> <p>6 we need not be involved in the details here basically.</p> <p>7 So, in the nature of it, I did not assume there</p> <p>8 was anyone actively involved in managing this process on</p> <p>9 a day-to-day basis.</p> <p>10 Q. Okay. But, in June of 2005, when you wrote the</p> <p>11 letter, you had already known that you lost on sovereign</p> <p>12 immunity in Court of Appeals. You knew that.</p> <p>13 A. I think that was on the table at the time. I</p> <p>14 mean if I had not known that, I would not have been --</p> <p>15 Q. It's in your letter?</p> <p>16 A. Yes.</p> <p>17 Q. So you knew that.</p> <p>18 Now, did you -- again, did you assume that</p> <p>19 somebody in government was involved in managing this, or</p> <p>20 did you not assume that?</p> <p>21 That's all I'm asking.</p> <p>22 MR. ROCHON: Asked and answered.</p> <p>23 MR. WISTOW: For the life of me, I don't</p> <p>24 know what the answer is.</p> <p>25 A. You know, I did not know if there was anybody</p>	<p>1 of this?</p> <p>2 A. If I did, I would not have written the letter</p> <p>3 probably.</p> <p>4 Q. I'm sorry. What?</p> <p>5 A. If I did, I probably would not have written the</p> <p>6 letter I did. I mean I probably would have gone to the</p> <p>7 person I had assumed was managing this.</p> <p>8 Q. So you believe nobody was managing it?</p> <p>9 A. I didn't really make an effort to find out. I</p> <p>10 just decided to deal with it myself.</p> <p>11 Q. Okay. Fair enough. Okay.</p> <p>12 Now, you were aware, when you wrote this letter,</p> <p>13 that there was a problem with the Wachovia Bank?</p> <p>14 MR. ROCHON: Page, counsel?</p> <p>15 MR. WISTOW: Yes. Page 3, third paragraph</p> <p>16 from the bottom.</p> <p>17 A. Page 3?</p> <p>18 Q. Yes.</p> <p>19 A. Yes. The letter itself, right?</p> <p>20 Q. Yes. Yes.</p> <p>21 A. Yes.</p> <p>22 (Witness peruses document.)</p> <p>23 A. Yes. Here I don't read through all of it, but I</p> <p>24 believe I'm talking only about the Pension Fund and the</p> <p>25 PNA.</p>

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<p>1 Q. Well, no. It seems to be more than that because</p> <p>2 it's talking about paying your employees salaries.</p> <p>3 Do you see?</p> <p>4 A. Let me just continue.</p> <p>5 (Witness peruses document.)</p> <p>6 Q. Where do I talk about salaries?</p> <p>7 Q. Well, it says, Expenses needed to run its office.</p> <p>8 Maybe I shouldn't have assumed that would be --</p> <p>9 What expenses were you talking about?</p> <p>10 A. Are we talking about the Pension Fund here?</p> <p>11 Q. No. It says -- I'll just -- I don't know what</p> <p>12 we're talking about. I'll just read what it says.</p> <p>13 A. Okay.</p> <p>14 Q. The PNA's bank in Washington --</p> <p>15 A. Where? I mean I'm reading the wrong paragraph.</p> <p>16 Q. Oh, okay. Fair enough. Page 3, third paragraph</p> <p>17 from the bottom.</p> <p>18 MR. ROCHON: (Indicating).</p> <p>19 A. This one?</p> <p>20 Q. Yes.</p> <p>21 A. As a result of receiving notice?</p> <p>22 Q. Yes. Exactly. Take a minute, read it, tell me</p> <p>23 when you're finished.</p> <p>24 A. Okay.</p> <p>25 (Witness peruses document.)</p>	<p>1 say, with all due respect.</p> <p>2 Q. If you disagree with me --</p> <p>3 A. I can't -- I mean, I'm just --</p> <p>4 MR. ROCHON: Counsel --</p> <p>5 A. Look. I'm prepared to sit here as long as is</p> <p>6 necessary. But I'm not really going to be forced into</p> <p>7 saying things not the way I want to say them.</p> <p>8 Q. Okay.</p> <p>9 A. I think it's fair enough.</p> <p>10 Q. I'll ask you this --</p> <p>11 Q. Please feel free to ask me however many questions</p> <p>12 you like, and I am prepared to sit with you for as long</p> <p>13 as it takes.</p> <p>14 But I am not comfortable being framed in the way</p> <p>15 to answer questions.</p> <p>16 Q. I can see that. I can see that.</p> <p>17 Did you consider it to be an immediate crisis?</p> <p>18 A. I considered it to be a very very big problem for</p> <p>19 the Palestinian Authority.</p> <p>20 In this particular paragraph, we're referring --</p> <p>21 we're talking about the operation of our Mission. And</p> <p>22 that's the PA in its entirety.</p> <p>23 Remember this. I regarded the whole case as one</p> <p>24 that's posing serious threat to the capacity of the PA</p> <p>25 to continue to function as a government. That's</p>
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<p>1 Q. And, incidentally, I do apologize for saying</p> <p>2 before, Listen, it was an appropriate response from</p> <p>3 Mr. Rochon.</p> <p>4 A. Yes. Okay.</p> <p>5 Q. Okay?</p> <p>6 A. Yes.</p> <p>7 Q. When you say necessary expenses needed to run, I</p> <p>8 assume that includes payroll and rent?</p> <p>9 A. All expenses, yes.</p> <p>10 Q. Yes. Whatever?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So this was a kind of an immediate crisis,</p> <p>13 was it not?</p> <p>14 A. Yes. I mean in the sense of it having led to a</p> <p>15 situation where our Mission was not able to use its</p> <p>16 resources available to pay salaries of employees and</p> <p>17 other operating expenses.</p> <p>18 Q. Yes. It's an immediate crisis?</p> <p>19 A. I mean not only in the sense it was a big</p> <p>20 problem. It was a huge problem.</p> <p>21 Q. It's immediate crisis, is it not?</p> <p>22 A. Immediate crisis --</p> <p>23 Q. Is it that difficult to agree with me?</p> <p>24 A. I don't know. Basically, I would have to be --</p> <p>25 I'm responsible for things I say, not for things you</p>	<p>1 basically --</p> <p>2 Q. Well --</p> <p>3 A. -- you know, and this -- reading through this</p> <p>4 now, it's coming back to me -- basically, looking at the</p> <p>5 myriad of actions, sequence of steps, a lot of things</p> <p>6 happening at the same time, you know.</p> <p>7 So anyone, you know, kind of sitting there having</p> <p>8 to deal with the consequences of this, clearly could not</p> <p>9 but have viewed this as a very very serious problem, for</p> <p>10 sure.</p> <p>11 Q. Clearly could what?</p> <p>12 A. Not but have viewed this as a very serious</p> <p>13 problem.</p> <p>14 Q. Now, you've seen about the bank thing. And</p> <p>15 that's yet another element of seriousness, right?</p> <p>16 A. I tell you, it's in there -- you know, the</p> <p>17 reference to -- maybe in the subsequent paragraph which</p> <p>18 I was reading before, thinking that was the paragraph</p> <p>19 that interested you -- talking, for example, about</p> <p>20 assets of the PMA, Palestine Monetary Authority, being</p> <p>21 frozen.</p> <p>22 Well, in fact, that was commercial bank money</p> <p>23 they were dealing with. For me, knowing what I know</p> <p>24 about financial flows and check-clearing matters and the</p> <p>25 rest of that, I knew this was debilitating way</p>

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<p>1 solution of hiring counsel in these cases.</p> <p>2 These legal advisors in the Palestinian</p> <p>3 Authority, as far as you know, were they trained or</p> <p>4 sophisticated in United States litigation matters?</p> <p>5 MR. WISTOW: Objection.</p> <p>6 A. No. I don't believe so. If any, very limited.</p> <p>7 And I know this is the case because we are really keen</p> <p>8 in developing our capability in this important area.</p> <p>9 And I personally have taken an interest in</p> <p>10 looking for adequately trained people in this area, and</p> <p>11 I have not been successful finding.</p> <p>12 So no. Lawyers we have are not well versed in US</p> <p>13 law.</p> <p>14 Q. You were asked some questions about the funding</p> <p>15 of sewer, health, medical, and electrical and other</p> <p>16 power in the Gaza after the Israeli incursion there.</p> <p>17 If you could explain, why does the Palestinian</p> <p>18 Authority support Gazans in that regard, and not do --</p> <p>19 let Hamas take care of them, as the questions suggested.</p> <p>20 A. Because it's our responsibility. I mean you had</p> <p>21 it right when you said support Gazans.</p> <p>22 THE COURT REPORTER: You had what?</p> <p>23 THE WITNESS: Pardon me?</p> <p>24 THE COURT REPORTER: I didn't hear you.</p> <p>25 THE WITNESS: And then I forgot what I said.</p>	<p>1 Is the commitment to litigate these cases yours,</p> <p>2 the government's, no one's? Whose commitment is it</p> <p>3 we're talking about?</p> <p>4 A. It's a PA commitment. I believe I answered the</p> <p>5 question when it was raised. I meant to actually</p> <p>6 project a full sense of commitment, and deep commitment</p> <p>7 in the fullest extent of the word and the term.</p> <p>8 This is a commitment that the PA takes very</p> <p>9 seriously. It is definitely our intention to do the</p> <p>10 best we can to give ourselves a chance to defend</p> <p>11 ourselves in this and other cases, in accordance with</p> <p>12 what US law provides for.</p> <p>13 And we'll be -- we are completely committed to be</p> <p>14 respectful of the process in all of its components. And</p> <p>15 the commitment extends well beyond me personally. This</p> <p>16 is a commitment that we take upon ourselves as a system,</p> <p>17 as a polity.</p> <p>18 MR. WISTOW: Move to strike.</p> <p>19 Q. If you could describe for us the cases -- and</p> <p>20 what this motion is about is to vacate the default</p> <p>21 judgment and to give the Palestinian Authority an</p> <p>22 opportunity to litigate these cases.</p> <p>23 Why is that important?</p> <p>24 A. I'm sorry?</p> <p>25 Q. Why is it important -- or is it important -- to</p>
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<p>1 MR. ROCHON: You had it right when you</p> <p>2 support Gazans.</p> <p>3 THE WITNESS: Yes.</p> <p>4 A. We view it as our responsibility, as the</p> <p>5 Palestinian Authority acting on behalf of the</p> <p>6 Palestinian people throughout the occupied Palestinian</p> <p>7 territory, both in the West Bank and Gaza.</p> <p>8 And so we do what we do because we are trying to</p> <p>9 do the best we can for and on behalf of our people in</p> <p>10 Gaza.</p> <p>11 I tell you, you have it right when you said we're</p> <p>12 doing this for Gazans. Gazans are citizens, Palestinian</p> <p>13 citizen. They're our citizens. So we do it as a matter</p> <p>14 of duty, responsibility.</p> <p>15 Where we could, we did. And those were areas we</p> <p>16 found it necessary to intervene and, in fact, we were</p> <p>17 able to intervene on behalf of the people. And we did.</p> <p>18 They're our people.</p> <p>19 We were not doing it for Hamas or on behalf of</p> <p>20 Hamas. We obviously wouldn't.</p> <p>21 Q. I'd like to ask you -- you were asked some</p> <p>22 questions about the decision to proceed and litigate</p> <p>23 these cases. Is that -- and you were asked about your</p> <p>24 personal commitment on specific questions in one of the</p> <p>25 declarations.</p>	<p>1 have an opportunity to defend the Ungar case itself?</p> <p>2 A. It is very important, you know, to defend</p> <p>3 ourselves as a state.</p> <p>4 A certain action was brought against us in a</p> <p>5 court of law in the United States, an action we do not</p> <p>6 feel that we'll be found liable for if there's due</p> <p>7 process, and if we go through a process that provides us</p> <p>8 with an opportunity to defend ourselves.</p> <p>9 It is our belief that if, in fact, that was to</p> <p>10 happen, that if we're given a chance to defend</p> <p>11 ourselves, that it is likely that we will not be found</p> <p>12 liable in this particular case.</p> <p>13 That's why we feel strongly about being given a</p> <p>14 chance to defend ourselves.</p> <p>15 Q. The impact of the default -- excuse me.</p> <p>16 The impact of the cases brought in the United</p> <p>17 States under the ATA -- the Anti-Terrorism Act -- what</p> <p>18 is the potential impact of those cases on the</p> <p>19 Palestinian Authority taken as a whole? That is, those</p> <p>20 cases taken as a whole.</p> <p>21 MR. WISTOW: Objection.</p> <p>22 MR. ROCHON: Basis.</p> <p>23 MR. WISTOW: I don't care to state it.</p> <p>24 Q. Please answer the question.</p> <p>25 MR. WISTOW: I will state it. Relevance.</p>

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<p>1 What difference does it make what the impact of the</p> <p>2 other cases are.</p> <p>3 MR. ROCHON: Thank you.</p> <p>4 Q. You can answer the question, Mr. Prime Minister?</p> <p>5 A. It would be substantial. It would be</p> <p>6 debilitating. These are large sums of money.</p> <p>7 I mean, in the case at hand here, we're talking</p> <p>8 about a very large sum of money relative to our over-all</p> <p>9 revenue take and what we can collect and the aid that</p> <p>10 we've been getting.</p> <p>11 And when we factor in other cases, most</p> <p>12 definitely it's something that would be highly</p> <p>13 destabilizing. It is something that we cannot afford.</p> <p>14 In this particular case, at this juncture, all</p> <p>15 we're looking for is an opportunity to defend ourselves.</p> <p>16 Q. What is the potential impact on the donor</p> <p>17 committee of these large judgments in these cases, if</p> <p>18 they were to occur?</p> <p>19 MR. WISTOW: Objection.</p> <p>20 Q. I said donor committee. I meant donor community.</p> <p>21 A. Yes.</p> <p>22 MR. WISTOW: Objection.</p> <p>23 Q. You may answer the question this time. This time</p> <p>24 I don't care what it is. You can answer the question.</p> <p>25 A. I think it would be a chilling effect on the</p>	<p>1 A. It is a commitment, you know, across the board in</p> <p>2 connection with all the cases where there's pending</p> <p>3 action in the United States.</p> <p>4 And it's a commitment that we have demonstrated.</p> <p>5 This is not a matter of words. This is not something</p> <p>6 that I would make a declaratory statement on only.</p> <p>7 It is something that is backed fully by actions</p> <p>8 that we have taken, not only in connection with the fact</p> <p>9 that we have hired legal counsel to really pursue this</p> <p>10 and other matters in this area in a serious and</p> <p>11 competent way, but also in the extent to which we</p> <p>12 demonstrated to the process, in all of its aspects, all</p> <p>13 of its phases, and throughout -- whether talking about</p> <p>14 discovery in connection with production of evidentiary</p> <p>15 material required, and also in various discussions and</p> <p>16 other aspects of litigation, including settlement in</p> <p>17 some -- which clearly demonstrates commitment to process</p> <p>18 as foreseen and provided for under US law.</p> <p>19 Q. Thank you, sir.</p> <p>20 MR. ROCHON: May I ask the time,</p> <p>21 Mr. Coopersmith?</p> <p>22 THE VIDEOGRAPHER: 12:19.</p> <p>23 MR. WISTOW: All right.</p> <p>24 MR. ROCHON: That was 16 minutes, not 15.</p> <p>25 And I do apologize.</p>
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<p>1 donor community's attitude to provide us with the aid</p> <p>2 that is needed.</p> <p>3 I mean, as it is, it's not really so easy to get</p> <p>4 the assistance that we need, particularly for what we</p> <p>5 call the current side of the budget, meaning current</p> <p>6 expenditure, operational expenditure -- like wages and</p> <p>7 salaries and other operational expenditures.</p> <p>8 To really factor in the possibility of having to</p> <p>9 pay substantial amounts of money in connection with</p> <p>10 these lawsuits, I don't believe the donors would be okay</p> <p>11 with it in the terms of them feeling that their</p> <p>12 resources that they are committing or making available</p> <p>13 for development purposes are being siphoned off to be</p> <p>14 used in connection with this litigation, with these</p> <p>15 lawsuits.</p> <p>16 Q. Last question.</p> <p>17 A. That's what I think, I mean, that that would be</p> <p>18 the case.</p> <p>19 Q. Last question, Mr. Prime Minister.</p> <p>20 The commitment that was referenced to litigate</p> <p>21 these cases that was made by you in the declaration in</p> <p>22 December of 2007, have you followed through on that</p> <p>23 commitment in connection with all of the other cases in</p> <p>24 which the -- ATA cases in the United States?</p> <p>25 MR. WISTOW: Objection.</p>	<p>1 MR. WISTOW: I don't want to use the word</p> <p>2 smarmy, but I can't think of another adjective.</p> <p>3 Can we --</p> <p>4 MR. STRACHMAN: We'll take a break.</p> <p>5 MR. ROCHON: Go off the record?</p> <p>6 MR. WISTOW: Yes. Please.</p> <p>7 THE VIDEOGRAPHER: Going off the record at</p> <p>8 12:19.</p> <p>9 (Short recess taken.)</p> <p>10 THE VIDEOGRAPHER: On the record at 12:30.</p> <p>11 MR. ROCHON: As I indicated off the record,</p> <p>12 one quick thing to put on the record, which is that,</p> <p>13 when you summarized my position on the length of the</p> <p>14 time for depositions, you may have gotten it wrong.</p> <p>15 I'm not saying my time eats into yours. You</p> <p>16 have your seven hours. You do with it as you wish.</p> <p>17 Mine doesn't --</p> <p>18 MR. WISTOW: It looks like it's going to be</p> <p>19 moot anyway.</p> <p>20 MR. ROCHON: Okay. Go ahead.</p> <p>21 MR. WISTOW: It looks like we're not going</p> <p>22 to have a problem.</p> <p>23 MR. ROCHON: Okay. Go ahead.</p> <p>24 REDIRECT EXAMINATION BY MR. WISTOW:</p> <p>25 Q. I want to talk with you just a little bit,</p>

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<p>1 Mr. Fayyad, about the -- I think you talked about a 2 devastating effect paying the judgment in this case 3 would have on the PA's financial situation, correct? 4 A. Yes. 5 Q. I'm focusing you on that. 6 Now, do you know how much money is tied up in 7 reference to the Ungar case? Roughly. 8 A. I mean I know there's Pension Fund money tied up. 9 Probably \$50 million. 10 Q. If I told you that more than \$116 million was 11 tied up, would that be a surprise? 12 A. It probably is within the realm of what I would 13 expect, yes. 14 Q. If I told you it's significantly more than 15 \$116 million, would that surprise you? 16 A. Maybe not. 17 Q. Okay. Whatever's been tied up is totally 18 unavailable to you at the present time, right? 19 A. It isn't available to us for use at the present 20 time. 21 Q. Right. And it's not affecting your ability to 22 fund anything one way or another at the moment, because 23 you don't have access to it? 24 A. But it has affected our ability already. 25 Q. In the past.</p>	<p>1 it's a benefit. 2 Q. It's a substantial benefit if you get the money, 3 correct? 4 A. I certainly believe it would be great relief if 5 those funds were unfrozen, for sure. 6 Q. But -- 7 A. Not to mention, if I may, that some of those 8 assets actually do not belong to the Palestinian 9 Authority. 10 And I feel very bad about, in particular, for 11 example, Pension Fund money being frozen. I mean that 12 money belongs to pensioners. 13 Q. May I suggest that you consider -- 14 A. And if that money does not become available, with 15 the Pension Fund running out of money, it's a liability 16 of the government. So I mean the tale on this has not 17 really all been written. That's one. 18 And, secondly, we're talking about substantial 19 sums of money, not only in connection with this case, 20 but other cases. 21 MR. WISTOW: You know, I just -- you've 22 given me a limited amount of time. We're trying to 23 accommodate. 24 MR. ROCHON: I haven't given you a limited 25 amount of time. The rules give you your time.</p>
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<p>1 A. No. In the following sense. 2 You know, we always had a deficit, a substantial 3 need for foreign assistance to fund that deficit 4 throughout the period this was litigated -- and, in 5 recent years, actually substantial deficit. 6 And what it meant is that, by not having access 7 to those funds, at least part of them, because they do 8 not all fall in the same category, the point is we had 9 to resort to bank borrowing in order to be able to make 10 end meets. 11 And this is way beyond what banks would -- you 12 know, whatever recourse to the banking system we would 13 have made in the absence of that attachment or the 14 freezing of those assets. 15 Q. There's no question that getting the money would 16 be a benefit to you. Getting it unfrozen and handed 17 over would be a benefit. 18 We all agree with that, correct? 19 A. It definitely would be a benefit because we have 20 substantial liabilities, corresponding liabilities, 21 given the absence from our income stream of the assets 22 frozen. 23 Q. All I'm doing is agreeing with you. We're saying 24 it's a benefit if you get the money, correct? 25 A. It's more than can be reflected by just saying</p>	<p>1 MR. WISTOW: I don't agree with that. 2 Q. Is this the kind of cooperation we can expect in 3 future, the way you're responding to my questions? 4 MR. ROCHON: Objection. 5 Q. Is it? 6 A. What do you mean by cooperation? 7 Q. Withdraw that. 8 MR. ROCHON: Mr. Prime Minister, don't 9 answer that. 10 Q. May I suggest, if you feel badly about what's 11 happening with -- 12 MR. ROCHON: Counsel, do you have a 13 question? 14 MR. WISTOW: Yes. 15 MR. ROCHON: What is it? 16 Q. Have you considered, to mollify your feelings 17 about the Palestinian Investment Fund, that somebody 18 goes to court and tells Judge Laguerre, Something's 19 wrong? 20 Have you thought about that? Yes or no. 21 MR. ROCHON: Asked and answered. 22 A. Can you please paraphrase. 23 Q. I'll withdraw the question. 24 You were talking about deficits -- 25 A. Yes.</p>

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<p>1 Q. -- that you have. Do you know whether the United</p> <p>2 States is running a deficit?</p> <p>3 A. Yes. The United States --</p> <p>4 Q. Very very substantial?</p> <p>5 A. Yes.</p> <p>6 Q. How about Spain?</p> <p>7 A. I imagine a substantial deficit.</p> <p>8 Q. How about Greece?</p> <p>9 A. Yes.</p> <p>10 Q. How about the UK?</p> <p>11 A. Yes.</p> <p>12 Q. How about Italy?</p> <p>13 A. Okay.</p> <p>14 Q. How about the European Union?</p> <p>15 A. What is the point, sir?</p> <p>16 Q. What?</p> <p>17 A. What is the point?</p> <p>18 Q. I don't have to tell you the point. I'm just</p> <p>19 asking you, doesn't the European Union have all kinds of</p> <p>20 deficits.</p> <p>21 A. The Palestinian Authority is not the European</p> <p>22 Union. Nor is it the United States. The capacity of</p> <p>23 the United States to run deficits is enormous. Ours is</p> <p>24 very very limited.</p> <p>25 Q. Sir -- sir --</p>	<p>1 finish and clarify, that's fine. I would like to get a</p> <p>2 straightforward answer to a question.</p> <p>3 Let me ask you this, sir.</p> <p>4 A. Yes.</p> <p>5 Q. We were talking about what kind of growth did you</p> <p>6 have in your gross domestic product last year. Do you</p> <p>7 know?</p> <p>8 A. Seven to eight percent.</p> <p>9 Q. Seven to eight percent. What was the US --</p> <p>10 A. Not 78.</p> <p>11 Q. No. Seven to eight.</p> <p>12 A. Yes.</p> <p>13 Q. I heard it.</p> <p>14 A. In that range, yes.</p> <p>15 Q. Okay. And do you know, roughly, what the United</p> <p>16 States was?</p> <p>17 A. About three percent maybe.</p> <p>18 Q. How about negative two and a half percent?</p> <p>19 A. When?</p> <p>20 Q. Last year.</p> <p>21 A. That may have been the case.</p> <p>22 Q. Okay. That's all I'm asking.</p> <p>23 A. Okay.</p> <p>24 Q. You're an economist, a Finance Minister. How</p> <p>25 about the European Union? What did they do in terms of</p>
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<p>1 A. No, no. But you're asking me a question with</p> <p>2 that implication.</p> <p>3 Q. There is no implication.</p> <p>4 MR. WISTOW: I'm running out of time. I'm</p> <p>5 asking that he just answer my questions.</p> <p>6 A. I am.</p> <p>7 Q. We're running out of time.</p> <p>8 All I asked is whether or not the United States</p> <p>9 has a deficit. That's all I asked.</p> <p>10 A. I am aware that the United States is running</p> <p>11 deficits, but the United States is not seeking foreign</p> <p>12 assistance to bridge the gap in its finances. We are.</p> <p>13 Q. Is the United States borrowing money overseas?</p> <p>14 A. Borrowing is different from getting grants.</p> <p>15 Q. Okay. It's a lot better to get grants than to</p> <p>16 borrow, I suggest to you.</p> <p>17 The question, sir, is, is the United States --</p> <p>18 MR. ROCHON: Counsel, is that a question?</p> <p>19 Q. The question is, is the United States running a</p> <p>20 deficit.</p> <p>21 A. It is running a deficit.</p> <p>22 Q. Okay. That's all I'm asking.</p> <p>23 A. And it can finance it by borrowing. We cannot</p> <p>24 borrow.</p> <p>25 Q. Mr. Fayyad, if you want to come back after I</p>	<p>1 their gross domestic product?</p> <p>2 A. The world went into deep financial crisis during</p> <p>3 2010 and 2009. There was negative growth in several</p> <p>4 areas of the world, yes. Okay.</p> <p>5 Q. That's right. And you had -- the West Bank had</p> <p>6 seven to eight percent increase in gross domestic</p> <p>7 product, correct?</p> <p>8 A. After nearly ten years of recession conditions or</p> <p>9 outright recession, acting at a very low on the strength</p> <p>10 of the stimulus.</p> <p>11 Q. Let me try it one more time.</p> <p>12 A. Yes.</p> <p>13 Q. The West Bank had an increase, in 2009, in its</p> <p>14 gross domestic product of seven to eight percent?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. And, actually, that was better than</p> <p>17 expected, correct?</p> <p>18 Withdraw the question. I want to move on.</p> <p>19 A. But you're asking me --</p> <p>20 Q. I withdraw the question.</p> <p>21 A. You're asking me questions and I have to answer</p> <p>22 you analytically. I mean the West Bank --</p> <p>23 Q. I withdraw the question.</p> <p>24 A. -- because you're starting from a very weak base.</p> <p>25 The US economy --</p>

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<p>1 Would you name one person who indicated to you</p> <p>2 that there would be a chilling effect if the judgment in</p> <p>3 this case was paid. One person.</p> <p>4 A. I cannot really give you a name.</p> <p>5 Q. Okay.</p> <p>6 A. All I can tell you is, based on those discussions</p> <p>7 that I had and which came up from time to time -- and</p> <p>8 not only at that donor conference -- my sense is that,</p> <p>9 you know, it would have a chilling effect on them if</p> <p>10 they knew effectively their money was going to be used</p> <p>11 in connection with such payments.</p> <p>12 Q. So that's your surmise?</p> <p>13 A. Based on those discussions.</p> <p>14 Q. But those discussions which you can't identify</p> <p>15 for me at all --</p> <p>16 A. You know --</p> <p>17 Q. -- is that true?</p> <p>18 A. -- I have lots of discussions.</p> <p>19 MR. ROCHON: Counsel, stop interrupting.</p> <p>20 A. I have discussions with donor country</p> <p>21 representatives on an on-going basis. We have a very</p> <p>22 active relationship with the international donor</p> <p>23 community where all issues of relevance are brought up.</p> <p>24 And these are periodic. They happen all the</p> <p>25 time. Issues come up. And I cannot tell you</p>	<p>1 Q. Okay.</p> <p>2 A. -- a name right away. But it doesn't mean those</p> <p>3 conversations did not take place.</p> <p>4 I am here to testify definitely that those</p> <p>5 discussions came up.</p> <p>6 Q. Somebody has to decide whether or not your</p> <p>7 statements are supportable. I'm trying to find out --</p> <p>8 A. I'm comfortable with that. Yes.</p> <p>9 Q. Okay. Fine.</p> <p>10 You indicated, in response to questions put to</p> <p>11 you by Mr. Rochon, that you considered it important to</p> <p>12 defend this case now.</p> <p>13 A. Yes.</p> <p>14 Q. And you explained the reasons?</p> <p>15 A. Yes.</p> <p>16 Q. Why didn't you defend it earlier? For example,</p> <p>17 in 2005, when you were involved?</p> <p>18 A. As I told you in previous testimony earlier on in</p> <p>19 this session, that, you know, our position here, in this</p> <p>20 particular case, in terms of where we are today, has</p> <p>21 evolved into what it is today, beginning with a position</p> <p>22 where the defense was -- it's not that the PA or the PLO</p> <p>23 did not try to defend themselves. They did.</p> <p>24 And the strategy that challenged the</p> <p>25 appropriateness or adequacy in terms of jurisdictional</p>
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<p>1 individually whom I spoke to, who said to me what when.</p> <p>2 But I know it's an issue of relevance to them, for sure.</p> <p>3 Q. I'm not asking you when. I'm just asking you</p> <p>4 who.</p> <p>5 This is a matter of importance to you, isn't it?</p> <p>6 A. It's a matter of huge importance.</p> <p>7 Q. And you don't remember one single person you can</p> <p>8 identify. Is that true?</p> <p>9 A. I can tell you --</p> <p>10 Q. Is that true?</p> <p>11 A. I can tell you representatives of the EU did</p> <p>12 raise the issue with me.</p> <p>13 Now, at this particular donor conference, it</p> <p>14 doesn't tend to be the same representatives all the</p> <p>15 time. I'd have to go back and see who was in attendance</p> <p>16 at that particular donor conference or meeting to tell</p> <p>17 you.</p> <p>18 But I am certain that that sentiment was</p> <p>19 communicated to me in more form than one.</p> <p>20 Q. As you sit here now, Mr. Fayyad --</p> <p>21 A. Yes.</p> <p>22 Q. -- can you name one person who discussed this</p> <p>23 with you and indicated it would have a chilling effect?</p> <p>24 Just one.</p> <p>25 A. I can't give you --</p>	<p>1 issues, in terms of sovereign immunity, I regard that as</p> <p>2 a line of defense. I mean it's not true that the PLO</p> <p>3 did not try to defend themselves. It was the line of</p> <p>4 defense that they used.</p> <p>5 There was evolution away from that, over a period</p> <p>6 of time, in the direction of seeking an opportunity to</p> <p>7 have this litigated so it would be an opportunity to</p> <p>8 defend ourselves against the specific charges made.</p> <p>9 The way I understand the system is that</p> <p>10 challenging the jurisdiction in a specific case on a</p> <p>11 specific submission is a part of the defense. That's my</p> <p>12 understanding of it. I mean it's not --</p> <p>13 The way I see it, it's not that the PLO did not</p> <p>14 try to defend itself. It did, under the strategy that</p> <p>15 we moved away from over time in an evolutionary way.</p> <p>16 Q. In fact, you decided to defend it on the merits</p> <p>17 after you lost in the District Court, in the Circuit</p> <p>18 Court, in the US Supreme Court, and immediately after</p> <p>19 Condoleezza Rice said to President Abbas, This judgment</p> <p>20 is valid and enforceable against all the PLO's and PA's</p> <p>21 assets in the United States, and she could not do</p> <p>22 anything about it.</p> <p>23 And that's when you decided to defend it on the</p> <p>24 merits. Isn't that so?</p> <p>25 MR. ROCHON: Objection.</p>

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<p>1 Q. Isn't that so?</p> <p>2 A. What you just said, sir, does not seem to be</p> <p>3 substantiated by the evidence discussed in the course of</p> <p>4 this deposition.</p> <p>5 The testimony will show, and statements read and</p> <p>6 pieces of material evidence cited, strongly indicate</p> <p>7 that the Palestinian Authority was trying to, in</p> <p>8 earnest, to find adequate and competent legal</p> <p>9 representation before that letter by the Secretary of</p> <p>10 State was sent to President Abbas.</p> <p>11 Looking for competent legal counsel in order to</p> <p>12 represent it and to have this litigated on merits, as</p> <p>13 you say, I mean before the letter from Secretary of</p> <p>14 State Condoleezza Rice was sent to the President.</p> <p>15 Q. But it was a matter of a few months after that</p> <p>16 letter from Condoleezza Rice that it was decided to do</p> <p>17 it on the merits. Isn't that so?</p> <p>18 MR. ROCHON: Objection.</p> <p>19 A. It is not true, based on testimony actually</p> <p>20 discussed today and presented today, and material read.</p> <p>21 Q. And also --</p> <p>22 A. It is clear, and I said, and I repeat, and I</p> <p>23 know -- and this is substantiated by evidence -- that</p> <p>24 the PA was definitely seeking to recruit, to employ, to</p> <p>25 hire, to retain the services of legal counsel in 2006.</p>	<p>1 A. I mean I -- I mean I don't know if Ramsey Clark</p> <p>2 was working on his own. He probably had associates,</p> <p>3 yes.</p> <p>4 Q. I'm not talking about associates. Ramsey Clark</p> <p>5 was not admitted to practice in Rhode Island.</p> <p>6 A. Okay.</p> <p>7 Q. He had co-counsel who signed all the pleadings,</p> <p>8 went to hearings. Are you aware of that?</p> <p>9 A. I'm not aware. I do not know how the proceedings</p> <p>10 went.</p> <p>11 Q. Okay.</p> <p>12 A. All I know is that that was the position taken</p> <p>13 and that was the submission made by the legal counsel</p> <p>14 there.</p> <p>15 Q. Did anyone contact --</p> <p>16 A. Exactly who did it, I don't know.</p> <p>17 Q. Did anyone contact Demming Sherman or his firm to</p> <p>18 see if they would represent the PLO and PA in 2006?</p> <p>19 A. That may have been the case. I do not know.</p> <p>20 Q. Anything could have been. Did you ask?</p> <p>21 A. I was not --</p> <p>22 Q. Did you ask?</p> <p>23 MR. ROCHON: Counsel, counsel, you're just</p> <p>24 badgering.</p> <p>25 Q. All right. I want to talk about the Mecca</p>
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<p>1 And the letter sent by Secretary of State Rice to</p> <p>2 President Abbas, that was presented to me which I saw</p> <p>3 for the first time here at this deposition, was a letter</p> <p>4 that was sent in January of 2007.</p> <p>5 Q. Name one lawyer -- one -- who was contacted by</p> <p>6 the PLO or PA to come into this case. Just one.</p> <p>7 MR. ROCHON: Asked and answered.</p> <p>8 A. I mean I don't know.</p> <p>9 Q. Okay.</p> <p>10 A. But I know that definitely was the case --</p> <p>11 Q. Okay.</p> <p>12 A. -- that the PLO was looking in the course of --</p> <p>13 Q. Do you know who Demming Sherman is?</p> <p>14 A. Pardon me?</p> <p>15 Q. Demming Sherman.</p> <p>16 A. I don't remember.</p> <p>17 Q. He was co-counsel --</p> <p>18 A. Oh, okay.</p> <p>19 Q. -- in this case.</p> <p>20 A. Okay.</p> <p>21 Q. Does that ring a bell?</p> <p>22 A. Co-counsel? You mean with Ramsey Clark?</p> <p>23 Q. Yes.</p> <p>24 A. Possibly.</p> <p>25 Q. Possibly? You don't know that?</p>	<p>1 agreement.</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Payments were made, and are to be made,</p> <p>4 directly for Hamas security forces under the Mecca</p> <p>5 agreement, are they not?</p> <p>6 A. Can you please repeat the question.</p> <p>7 Q. Payments are made by the PA, under the Mecca</p> <p>8 agreement, for Hamas security forces.</p> <p>9 A. That's not true.</p> <p>10 Q. That's absolutely false?</p> <p>11 A. There's not a provision in the Mecca accord that</p> <p>12 has something specific pertaining to payments to</p> <p>13 security forces or anything like that.</p> <p>14 Q. But there are payments made that end up</p> <p>15 supporting security forces, aren't there?</p> <p>16 A. I mean --</p> <p>17 Q. Aren't there?</p> <p>18 A. Payments made available -- or donations, donor</p> <p>19 assistance -- made available to the Palestinian</p> <p>20 Authority is used to, among other things, pay salaries</p> <p>21 and wages for PA employees, civilians and security</p> <p>22 personnel.</p> <p>23 That's not to say Hamas.</p> <p>24 Q. Well, the security personnel in Gaza, yes?</p> <p>25 A. Yes.</p>